United States Court of Appeals for the Second Circuit



APPENDIX

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Docket Nos. 75-4105 75-4113 75-4118 75-4105

ITT WORLD COMMUNICATIONS INC., RCA GLOBAL COMMUNICATIONS, INC., and WESTERN UNION INTERNATIONAL, INC.,

Petitioners and Intervenors,

against

FEDERAL COMMUNICATIONS COMMISSION and UNITED STATES OF AMERICA,

Respondents,

TRT TELECOMMUNICATIONS CORP.,

Intervenor.

PETITION FOR REVIEW OF A MEMORANDUM OPINION AND ORDER OF THE FEDERAL COMMUNICATIONS COMMISSION

APPENDIX

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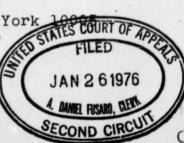
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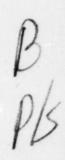
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PAGINATION AS IN ORIGINAL COPY

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FCC 75-655 35267

In the Matter of

TRT TELECOMMUNICATIONS CORPORATION

Proposed Revisions to Tariff F.C.C. No. 64 for Telex Service Between the United States and the United Kingdom and the United States and The Federal Republic of Germany

Transmittal No. 684

Adopted: MEMORANDUM OPINION AND ORDER
June 3, 1975 ; Released: June 6, 1975

By the Commission:

- 1. The Commission has before it: tariff revisions filed by TRT Telecommunications Corporation (TRT) on March 24, 1975 that would reduce telex rates from the United States to the United Kingdom and the Federal Republic of Germany during off-peak hours for an experimental six month period; petitions for rejection filed by Western Union International, Inc. (WUI) and RCA Global Communications, Inc. (RCA); petitions for suspension and investigation filed by WUI and ITT World Communications, Inc. (ITT); TRT's opposition to the petitions for rejection and reply to the petitions for suspension; a request for official notice by ITT; and TRT's request for reconsideration of staff action suspending the effectiveness of the tariff for 30 days. */
- 2. The TRT tariff revisions propose a reduction of the current telex rate of \$2.55 per minute, which now applies seven days a week, 24 hours a day, to an off-peak rate of \$2.00, which would be applicable between 7 p.m. and 9 a.m. weekdays and between 7 p.m. Friday and 9 a.m. Monday on weekends, Eastern Time. TRT believes that this experimental tariff will offer off-peak international telex service at reduced rates, encourage the use of telex service during light traffic periods, meet the expressed needs of users, alleviate existing international telex network congestion during peak traffic hours, and improve the equipment and circuit utilization of existing telex networks (domestic, international and European).

^{*/} Since TRT's tariff went into effect on May 31, 1975, the TRT request for reconsideration will be dismissed as moot.

3. In opposition to the TRT tariff, the international record carriers (IRCs) assert that the proposed off-peak rate reduction was put forth without joint study and consultation between the IRCs and their foreign correspondents, contrary to Commission policy recently reaffirmed in Docket No. 18875 and the Munich agreement that the United States and Europeans would work cooperatively and not depart on new courses unilaterally. It is further claimed that the tariff is inconsistent with the United States policy position adopted by CCITT Study Group III as expressed in a letter to Mr. J. F. Pedersen stating:

The United States believes that there is no apparent benefit at this time in considering Question 7/III /concerning reduced telex rates during off-peak periods/ in an intercontinental context and that resolution be more quickly and casily reached if it is considered as a continental problem.

If this question is adopted, Administrations will not have to ponder the problem of determining off-peak hours in the case of service between the United States and Europe, for example, where 5 hours minimum time differential exists. Furthermore, regional groups, such as TEUREM, would be able to consider the question within a narrower context, as it relates to a particular geographical area if intercontinental considerations are set aside. For these reasons, the United States proposes that Question 7/III will be considered and resolved on a regional basis by individual regional tariff groups.

4. In addition to claiming that the initiation of reduced rates for intercontinental service should be effected by bilateral or multilateral agreement, the IRCs assert that TRT's proposed rates are unlawfully discriminatory because they are based on United States Eastern Time, without regard to differing time zones within the United States where the communications originate. ITT notes that AT&T's rates for off-peak telephone service are based on the time at the location of the calling station. Also, off-peak hours in the United States Eastern time zone do not coincide with off-peak hours in the United Kingdom and Germany because of the 5-6 hour differential, which detracts from the stated goal of alleviating congestion there. The IRCs assert that the

reduced rate plan could shift traffic to these countries at the expense of other European countries, and would adversely affect the divisions of tolls and the balance of payments. They further claim that tariff is unclear as to whether the reduced rates would apply to TRT's "Stortex" (its deferred telex service) or its multiple address common text telex service. It is also asserted that TRT has filed inadequate supporting data and explanatory material under Sections 61.38 and 61.55(f) of the Rules, and that its request for waiver of those requirements should be denied. Finally, the IRCs urge that a tariff filing is an inappropriate vehicle for implementing a fundamental change in the concept of international telex and that TRT should not be allowed to institute such a basic change at a time when the legal basis for its Section 214 authorizations to serve the United Kingdom is still under challenge in a long-pending petition for reconsideration.

- 5. In reply, TRT emphasizes the experimental nature of the proposed six-month offering. The principle purpose is to test the responsiveness of transatlantic telex customers to an off-peak rate reduction as an incentive to defer the transmission of their traffic to off-peak periods when it may be handled at lower cost and when it will not contribute to network congestion. TRT states that because telex is a business service, the great preponderance of its United States to Europe traffic is transmitted during normal business hours in the eastern portion of the United States where European oriented businesses are concentrated. Thus, 84% of TRT's U.S. to U.K. telex traffic is transmitted between 9:00 a.m. and 7:00 p.m. Eastern time on weekdays and over 90% of its U.S. - FRG telex traffic is transmitted during the same period. A TRT customer survey indicated that the proposed 22% off-peak reduction would result in about 11% of TRT's telex traffic to these points being diverted to off-peak hours. TRT believes that an actual market test would be highly beneficial to confirm the effectiveness of off-peak pricing and to assist its determination as to whether off-peak pricing should be permanently implemented as a part of its rate structure.
- 6. TRT states that U.S. originated telex traffic to Europe is growing at a rapid rate which has caused a continuing decline in the quality of service due to network congestion. Because of delays in completing calls in peak periods, the IRCs incur long non-revenue-producing holding times during which they must pay Western Union Telegraph Company for domestic services without being able to charge the customer for international service. TRT pays Western Union on the average of \$.50 for each minute of billable time during peak hours, as compared to \$.42 for each billable minute in off-peak hours. Insofar as the IRCs

assert that the tariff is unclear as to whether the proposed reduced rates apply to Stortex, TRT points to tariff provisions which it says exclude Stortex from the reduced rate offering. In the event that the Commission believes it desirable, TRT would be willing to file clarifying tariff language.

- 7. TRT claims that its filing represents the first voluntary carrier reduction in transatlantic telex rates in many years. Not only does it evidence TRT's willingness to re-evaluate the status quo in an attempt to provide improved services at reduced rates, but it will also serve the public interest by affording users a broader range of options in determining how they might best satisfy their transatlantic communications needs. The broadside attacks of the other IRCs should not serve to defeat or delay the ascertainment of these experimental goals and potential public benefits. Specifically, TRT urges that there is no unwritten or binding rule requiring it to obtain prior approval of its foreign correspondents and its competitors to planned rate initiatives. In fact. TRT has fully explained its proposed experimental rate reduction to the British Post Office and the German Administration, and neither entity has objected to the proposed reduction. If the off-peak experiment should cause any operational difficulties for TRT's correspondents, it will take prompt steps to rectify the situation. The CCITT Study Group III letter does not state any position on the advisability of intercontinental off-peak rates or reflect any consensus of the United States delegation on the merits. TRT will closely monitor market reaction to the proposed experimental rate reductions and will periodically report its findings to the Commission as well as make such findings and the underlying data available to CCITT for its consideration. Thus, the proposed experiment should be of substantial assistance to CCITT. In this connection, TRT notes that WUI has recently asserted to the Commission with respect to WUI's proposed experimental IDDS offering that the merits of the service "can best be evaluated in the crucible of the marketplace" (WUI's Opposition to Petition to Deny of ITT, dated April 21, 1975, pp. 12-13).
- 8. On the alleged unlawful discrimination between Pacific time zone and Eastern Time zone customers, TRT states that Section 202(a) does not require a slavish uniformity in rates or that the service offering be equally beneficial to all members of the public. The purpose of the experimental offering is to encourage its customers to defer their transmissions to TRT's off-peak periods. As shown in TRT's aupport material, 9 a.m. to 7 p.m. Eastern time is when TRT experiences peak load conditions. Thus, the offering is reasonably geared to TRT's

operations and is not unreasonably discriminatory. Moreover, if the time zones of each of its many thousands of telex customers were the applicable standard, the billing computer would have to be reprogrammed to recognize this information in the computation of charges.

- 9. With respect to contentions that the experimental offpeak offering will not have the results anticipated by TRT or will have
 the adverse consequences alleged, TRT argues that the fears of the IRC's
 are unwarranted. In any event, TRT states that the purpose of the
 limited experimental offering is to explore any unforseen effects before
 deciding on any permanent offering. If any adverse consequences develop,
 TRT will correct the situation either by a modification in the off-peak
 rate structure or operating procedure or, if need be, by terminating
 the experiment. TRT does not anticipate any effect on the U.S. belance
 of payments, since it would not pay more to its foreign correspondents
 for U.S. to Europe telex calls than it now pays, and will not collect
 any less from its foreign correspondents than it now collects for
 terminating telex calls originating in Europe. TRT will merely charge
 its United States customers 55¢ per minute less for off-peak telex calls
 to the U.K. and the FRG than it now charges.
- 10. During the six month period that the experimental reduced telex rates are in effect, TRT plans to make weekly traffic distribution studies which will be compared with similar traffic distribution studies for one week during each of the mor. 3 January - April, 1975 (before the reduced rates were effective). The output of these computerized traffic studies will show the minutes of non-revenue producing holding time and the minutes of revenue producing connect time by hour of the day. Comparison of those study results will enable TRT to determine the overall effect of the reduced rates on the distribution of telex traffic throughout the day, trends in off-pak usage, and changes in hold time to connect time ratios. In addition, once each month during the experimental period, TRT will conduct a market study of its U.K. and FRG customers to determine the amount of telex traffic deferred to off-peak periods as a result of the reduced rates, and the total amount of telex traffic deferred to offpeak periods, the proportion of this traffic that previously had been transmitted during peak periods and the amount of new telex traffic that had previously been transmitted via other communication media.
- ll. Finally, in urging that the tariff become effective without hearing, TRT states that it has received numerous letters and telephone calls showing overwhelming user support and significant customer interest in the proposed reduced rates.

DISCUSSION AND CONCLUSIONS

- 12. Upon careful consideration of the TRT proposed experimental offering in light of the objections of the IRCs, we are persuaded that the public interest would be best served by permitting the experiment to proceed subject to the conditions set forth below. In so concluding we consider it highly significant that the proposed off-peak telex reduction is not a permanent tariff offering but rather an experiment, for a limited period of six nonths, which should yield valuable information that would assist the Commission, TRT and other IRCs, their correspondents, CCITT Study Group III, and the public in assessing the desirability of any permanent offering. We have a general policy of encouraging competitive carriers to undertake new and innovative service offerings that will afford users a wider choice of options. In this instance we believe that a limited marketplace test of reduced off-peak telex rates is an appropriate manner in which to explore the implications for the public and other interested entities. We also think that a marketplace test would be more useful than an evidentiary hearing in producing definitive information expeditiously so that it can be determined whether the public interest would be served by a permanent offering of the same nature or with modifications. The potential benefits that may be achieved (more efficient use of facilities, savings in Western Union's charges through reduction in holding times, and reduced rates for customers) outweigh the minimal risk of harm. Not only is the experiment of short duration but TRT's share of the telex traffic to these two points is so small in comparison with other IRCs that no major disruption of European traffic patterns could occur. 1/ The IRCs are under no compulsion from us to follow TRT's example during this experimental period, and may proceed according to their independent judgments of the relative potential benefits and drawbacks.
- 13. We of course adhere to our statement in Docket No. 18875 (FCC 75-181, February 25, 1975) as to the need for coordination and consultation with responsible entities in other countries concerning international communications systems. While that statement was made in the context of the facilities required to serve U.S. needs, it may also be relevant to tariff offerings that could significantly affect traffic

In the case of the U.K., TRT has 11 telex circuits compared to 476 for other IRCs. TRT has 8 telex circuits to FRG, compared to a total of 263 for the other IRCs.

congestion on European facilities. In light of the six-month duration of the proposed experiment, TRT's small share of the telex service to these points, and TRT's statement that it has coordinated with its U.K. and FRG correspondents here, we think that no more is required for the instant purpose. We will require TRT to report promptly to us any adverse comments from its U.K. and FRG correspondents during the experiment, and shall expect any tariff filing for a permanent offering of reduced off-peak telex rates to be accompanied by the views of the relevant foreign correspondents in writing.

- 14. The position of CCITT Study Group III on the question of reduced rates for intercontinental telex is not binding on this Commission and does not foreclose the proposed experiment. As TRT points out, the information to be derived from this experiment may assist the Study Group in determining whether it wishes to take a position in the future on the merits of the question of reduced rates for off-peak telex. In any event, it is our view that the public interest will be served by allowing the proposed experiment in order to assist us in the execution of our responsibility to ensure that the public has available a "rapid, efficient, Nation-wide, and world-wide wire and radio communications service with adequate facilities at reasonable charges" (Section 1 of the Act).
- 15. With respect to the claim of discrimination in the use of the Eastern Time Zone as the yardstick for off-peak hours, we conclude that this is reasonable for the purposes of the experiment in view of TRT's representation as to its traffic patterns. TRT states that 84% or more of its telex traffic to U.K. and FRG is transmitted between 9 a.m. and 7 p.m. weekdays, Eastern time. While we do not think it worthwhile in the circumstances to require TRT to reprogram its billing computer for a six month experiment, we would require further justification in the case of any proposal to depart from the use of local transmission times for a permanent service offering.
- 16. Finally, as to arguments that the proposed tariff is not adequately supported under Sections 61.38 and 61.55(f) of the Rules, we think that TRT has shown enough to enable a finding that the proposed experiment is in the public interest. To the extent that the showing may be deficient if this were a permanent tariff offering, we waive sections for this experimental tariff. However, since TRT has offered to file clarifying language, if desired, to remove any ambiguity as to the exclusion of Stortex and multiple address common text telex from the

reduced rates, we direct TRT to consult with our staff as to the nature of any clarifying language amendments it deems desirable. The circumstance that a petition for reconsideration of TRT's Section 214 authorization to the U.K. is still pending does not preclude a resolution of the merits of this experimental tariff offering. TRT's U.K. authorization has not been stayed and is effective pending reconsideration. Moreover, we do not regard this as a basic change in U.S.-European telex service, but rather as an experiment of very limited scope to ascertain valuable information with respect to the effect of reduced telex rates in off-peak hours. 2/

- 17. To maximize the value of the experiment we will require TRT to submit:
 - (a) the traffic studies described in its filings (para. 10 above), which shall also be broken down to reflect telex traffic originating in the Pacific Time Zone in comparison with traffic originating in the Eastern Time Zone; 3/
 - (b) any comments received from its U.K. and FRG correspondents concerning the effect of the experimental offering on their operations;
 - (c) full information as to the revenues actually received from all its telex operations to the U.K. and FRG during the experimental period, broken down to reflect the portions received from off-peak and peak hour operations, as compared to the revenues received from telex service to those two points during the period immediately preceding the effectiveness of the experimental tariff.

^{2/} Contrary to the contention of WUI, we believe that TRT properly proceeded under Section 203 rather than Section 214 of the Communications Act. The proposed tariff involves a rate change for an existing authorized service rather than a new service requiring prior authorization under Section 214.

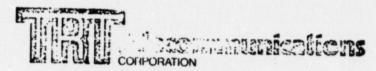
^{3/} Such information shall be provided for telex originated traffic and for TWX originated traffic, if practicable.

It further appears that, to the extent that the holding times may be occasioned by congestion on European facilities during European peak traffic hours, it would be useful to experiment with reduced rates for telex transmission during off-peak hours European time. We shall therefore require TRT, after consultation with its U.K. and FRG correspondents, to conduct a similar experiment with reduced rates for U.S. to U.K.-FRG telex during those hours which are off-peak for U.K. and FRG facilities so that the results may be compared with the instant experiment. While such a comparison would provide useful information to assist our determinations with respect to any permanent offering of reduced rate telex in off-peak hours, TRT may conduct the experiment based on U.K.-FRG off-peak hours for a period shorter than six months that is sufficient to provide a meaningful comparison.

- 18. In light of the foregoing, IT IS ORDERED That the petitions for rejection and suspension of the TRT tariff ARE DENIED, and TRT's request for reconsideration IS DISMISSED.
- 19. IT IS FURTHER ORDERED, That TRT shall file the information set forth in para. 17 herein periodically during the six month experimental period and promptly upon the conclusion thereof, and shall conduct the further experiment described in para. 17 herein, to be accompanied by the submission of similar reports.

FEDERAL COMMUNICATIONS COMMISSION

Vincent J. Mullins Secretary



DAVID H. LUBETZKY
PRESIDENT & CHIEF EXECUTIVE OFFICER

March 24, 1975

MAR 26 1975

The Honorable Richard E. Wiley Chairman, Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

Dear Chairman Wiley:

TRT Telecommunications Corporation (TRT) has today filed tariff revisions (copy attached) with the Federal Communications Commission that, for an experimental six-month period, will reduce telex rates from the United States to the United Kingdom and the Federal Republic of Germany on weekends and during the weekday off-peak hours of the late evening and early morning. TRT proposes a reduction of the current rate of \$2.55 per minute, which now applies seven days a week, twenty-four hours a day, to an off-peak rate of \$2.00, which will be applicable between 7 p.m. and 9 a.m. weekdays and between 7 p.m. Friday and 9 a.m. Monday on weekends.

TRT's tariff filing represents the first voluntary reduction by any U.S. international record carrier of telex rates in the transatlantic market in many years. Moreover, it clearly evidences a willingness by TRT to re-evaluate the status quo in an attempt to provide improved service at reduced rates and to afford users a broader range of options in determining how they might best meet their transatlantic communications needs.

In making this re-evaluation of the present rate structure, TRT has determined that significant costs savings may be obtained through off-peak use of international telex services. First, by offering customers incentives to defer transmissions to off-peak hours when telex circuits, switches and exchanges are in use far below their capacity levels, the existing domestic, international and European telex networks and their associated facilities can be utilized in a more efficient and economical manner. Second, with respect to telex traffic originated on the Western Union telex system, the amount of non-revenue-producing holding times can be reduced if telex messages are deferred to hours when the domestic and international telex exchanges are less congested and connections can be more rapidly made. Furthermore, TRT expects

Richard E. Wiley March 24, 1975 that customers choosing to utilize off-peak services will tend to "batch" messages sent to a common destination, further reducing the holding time otherwise required in the transmission of individual messages. Moreover, as demonstrated in the attachment hereto, TRT believes that a significant number of customers, if offered lower rates reflecting lower costs, will defer their telex filings to off-peak hours, and that they and others will rely upon telex service priced at off-peak rates as an alternative to communications now accommodated by other media, such as telephone and mail. Thus, TRT's experimental off-peak rate will reduce costs of service, offer rate reductions to users and stimulate demand for telex services. Of course, in the light of the fact that neither RCA Global Communications, Inc., ITT World Communications Inc. nor . Western Union International, Inc. has heretofore initiated an off-peak rate, TRT cannot predict with confidence the precise cost savings that may be realized as a result of this new rate nor the exact nature of the customer response to it. It is for that reason that TRT has determined to offer the rate on an experimental six-month basis. Prior to the expiration of the experimental six-month period for these rates, TRT intends to analyze in detail its costs and its customers' response to TRT's offering and to determine base upon that analysis whether the rate should be made permanent. In order to provide the Commission with the benefits of that analysis, TRT will undertake to make the work papers and studies associated with such analyses available to the Commission's staff. TRT looks forward to developing other rate initiatives as tangible proof of the way in which the public interest can be served by affording TRT a fair opportunity to compete in the international telecommunications market. David H. Lubetzky, President TRT Telecommunications Corporation Copies furnished: Office of Telecommunications Policy ITT World Communications Inc. RCA Global Communications, Inc. Western Union International, Inc. A-9b



March 24, 1975

Transmittal No. 684

Mr. Vincent J. Mullins Secretary Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

ATTENTION: COMMON CARRIER BUREAU

Dear Mr. Mullins:

The accompanying revised tariff pages are sent to you for filing in compliance with the requirements of the Communications Act of 1934, as amended, and Part 61 of the Commission's Rules.

52nd revised page No. 1 1st revised page No. 7C 11th revised page No. 8C 7th revised page No. 10

These pages bearing Tariff F.C.C. No. 64 are issued by TRT Telecommunications Corporation (TRT), to become effective May 1, 1975 for an experimental period of six calendar months.

This filing is being made to establish provisions which will result in reduced experimental rate levels for international telex service from the Continental United States, on the one hand, to the United Kingdom and the Federal Republic of Germany, on the other hand, during night, early morning and weekend time periods. During such periods, TRT proposes a reduced experimental rate level for international telex service of \$2.00 per minute in comparison with the \$2.55 per minute rate that is presently applicable throughout the full week on a 24 hour per day basis.

TRT believes that this experimental tariff filing will:
(1) offer off-peak international telex service at reduced charges to customers in accordance with the lower costs of providing service at off-peak periods, (2) encourage the use of telex during light traffic periods for communications now accommodated by other media, such as phone and mail, (3) meet the expressed needs of users, (4) alleviate existing international telex network congestion during peak traffic hours, and (5) improve the equipment and circuit utilization of existing telex networks (domestic, international and European).

Vincent J. Mullins March 24, 1975 Pursuant to Section 61.38 of the Commission's Rules, there is submitted herewith a document entitled "Reduced Experimental Rates For International Telex Service During Night And Weekend Periods To The United Kingdom And The Federal Republic Of Germany," which sets forth in detail the reasons for this experimental tariff filing and certain economic data in its support. In light of the experimental nature of the tariff filing, TRT requests waiver of any applicable section(s) of Part 61 of the Commission's Rules to the extent the Commission believes that the accompanying material does not fully comply with said section(s). Deletion of the obsolete provision for one minute minimum charging for semi-automatic telex calls from the Continental United States to Panama (Canal Zone) is also being made. Enclosed herewith is a check for \$400.00, as required by the Commission's Rules. This check is being paid under protest, for reasons previously set forth by TRT in its March 6, 1975 letter to the Commission. Its payment should not, therefore, be taken as a waiver of any rights which TRT might have for reimbursement should it subsequently be determined that the Commission's collection of fees with respect to tariff filings is invalid. Very truly yours, R. F. Sabacek Director - Rates & Tariffs Attachment

A-11

CHECK SHEET

Pages 1 to 10 inclusive of this tariff are effective as of the date shown. Revised pages as named below and Supplement No. 2 contain all the changes from the original tariff that are in effect on the date thereof.

Page	Number of Revision Except as Indicated			
Title	3RD			
*1	52ND			
	4TH			
3	4TH			
2 3 4	4TH			
4A	3RD			
5.	1ST			
6	1ST			
7	Original			
7A	10TH			
7B	5TH			
*7C	1ST			
8	26TH			
8A	19TH -			
8B	14111			
*8C	11TH			
9	3RD			
*10	7mt			
10	/In			

*Issued: March 24, 1975

Issued:

March. 24, 1975

Issued By:
R. F. Sabacek
Director-Rates & Tariffs
1747 Pennsylvania Avenue, NW
Washington, DC 20006

Effective:

May 1, 1975

INTERNATIONAL TELEX SERVICE

E-Rates (Continued)

Rates from points within Continental United States and Puerto Rico to foreign countries are as follows:

MINIMUM CHARGE FOR THE FIRST THREE MINUTES OR FRACTION THEREOF: (#)

70	CONFINENTAL UNITED STATES	PUERTO RICO
	CVIII DITTIO	TODATO ALCO
Colombia	\$9.00 *	\$ 9.00
Congo (People's Republic)	12.00 (S)	15.00 (S)
Cook Island	12.00 (S)	15.00 (3)
Costa Rica	9.00 *	9.00 *
Cyprus	7.65	12.00
Czechoslovakia	9.00 *	12.00
Dahoney Republic	12.00 (S)	15.00 (S)
Denmark	7.65 *	12.00 *
Dominica	9.00	6.00
Dominican Republic	7.50	4.50
Dubai	12.00 * (S)	15.00 * (S)
Ecuador	9.00 *	9.00 *
Ethiopia	12.00	15.00
Farce Islands	. `7.65	12.00
Fiji Islands	12.00 (S)	15.00 (S)
Finland	7.65 *	12.00 *
France (Including Andorra and Monaco)	7.65 *	12.00
French Antilles	9.00	9.00
French Guiana	9.00	9.00
French Territory of the Afars and Issas	12.00 (S)	15.00 (Ş)
Gabon Republic	12.00 (S)	15.00
Gambia	12.00	15.00 (S)
Germany (Democratic Rep.)-T	9.00	12.00
Germany (Federal Rep. of)	7.65 * (+)	12.00
Gnana	12.00 (S)	15.00 (S)
Gibraltar	9.00	12.00
Greece .	7.65 *	12.00
Greenland	7.65	12.00
Grenada	9.00	6.00
Guatemala	9.00 *	9.00

(#) The charge for each additional consecutive minute or fraction thereof beyond a minimum of 3 minutes is one-third of the initial period rate.

(*) See page 10 for explanation.

(S) Reissued from original page No. 7C effective June 1, 1975.

(+) Weekend and night rates apply. See Page 10. Expires October 31, 1975 unless sooner cancelled, changed or extended.

Issued:

March 24, 1975

Issued by:
R. F. Sabacek
Director-Rates & Tariffs
1747 Pennsylvania Avenue, NW
Washington, DC 20006

Effective;

May 1, 1975 Except as otherwise indicated

CANCELLING 10TH REVISED PAGE NO. 8C

INTERNATIONAL TELEX SERVICE

E - Rates (continued)

Rates from points within Continental United States and Puerto Rico to foreign countries are as follows:

MINIMUM CHANGE FOR THE FIRST THREE MINUTES OR FRACTION THEREOF: (#)

	CONTINENTA UNITED STAT			PUERTO RIC	~)
<u>TO</u> .	ONTIED SINI	دحد		robito ita	<u> </u>
Syria	\$12.00		(S)	\$15.00	(S)
Tahiti	9.00		(S)	12.00	(S)
Tanzania	9.00	*		12.00	*
Thailand		*		15.00	*
Togolėse Republic	12.00		(S)	15.00	(S)
ortola	9.00			6.00	
Trinidad & Tobago	9.00		1	6.00	
Tunisia	9.00			12.00	
Turkey	7.65			12.00	
Turks & Caicos Islands	7.50		•	6.00	
Uganda	9.00	*	(S)	12.00	* (S)
	9.00	*	,0,	12.00	*
United Arab Republic	7.65	*	(+)	12.00	*
United Kingdom	7.05		``'	6.00	*
United States	12.00		(S)	15.00	(S)
Upper Volta Republic	9.00		(0)	9.00	- Charles
Uruguay	7.65			12.00	
USSR	7.65	*		12.00	
Vatican City State		*		9.00	
Venezuela	12.00			15.00	
Vietnam				3.00	
Virgin Islands(St. Croix and St. Thomas)	6.00		(6)	15.00	(S)
Yemon Arab Republic	12.00		(S)	15.00	(S)
Yemen (People's Dem. Rep.)	12.00		(S)	12.00	(5)
Yugoslavia	7.65		-		
Zaire	9.00			12.00	(0)
Zambia	9.00		(S)	12.00	(S)

(*) See Page 10 for an explanation.

S) Reissued from 10th Revised Page No. 8C effective June 1, 1975.

(+) Weekend and night rates apply. See page 10. Expires October 31, 1975 unless sooner cancelled, changed or extended.

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R. F. Sabacel Director-Rates & Tariffs 1747 Pennsylvania Avenue, NW Washington, DC 20006

May 1, 1975 Except as otherwise indicated

^(#) The charge for each additional consecutive minute or fraction thereof beyond a minimum of 3 minutes is one-third of the initial rate.

D

Ø-N

INTERNATIONAL TELEX SERVICE

E - Rates (continued)

5. Fully Automatic Telex Calls

In the case of fully automatic (customer-to-customer dialing), semi-automatic and manual telex calls as the case may be, to points where the published rate is followed by the symbol(*) the charges are based on a minimum period of one minute and the charge per minute or fraction of a minute is one third the rate published herein.

6. Sem . . .

6. Weekend and Night Telex Calls

In the case of telex calls to points where the published rate is followed by the symbol (+), a reduced charge of \$2.00 per minute applies to calls connected as defined herein, between the hours of 7 p.m. and 9 a.m. EST or EDT Monday through Thursday and from 7 p.m. EST or EDT Friday through 9 a.m. EST or EDT Monday.

ø - Expires October 31, 1975 unless sooner cancelled, changed or extended.

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March 24, 1975

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Effective:

May 1, 1975

REDUCED EXPERIMENTAL RATES FOR INTERNATIONAL TELEX SERVICE DURING NICHT AND WEEKEND PERIODS TO THE UNITED KINGTOM AND THE FEDERAL REPUBLIC OF GERMANY

REASONS FOR FILING

During the last several years, the volume of United States (US) originated telex traffic destined to Europe has been increasing dramatically. For example, between 1972 and 1973, US originated telex traffic to Europe increased from 16,584 to 21,176,731 minutes, more than 27%. Similarly, between the first half of 1973 and the first half of 1974, US originated telex minutes increased more than 26%. Telex traffic to the United Kingdom (UK) and the Federal Republic of Germany (FRG), TRT's two largest European telex markets, has, of course, shown a corresponding growth.

It can be expected that these dramatic rates of growth of international telex traffic to Europe, and, in particular, to the UK and the FRG will continue. This becomes especially apparent when one considers that between 1974 and

*/	US ORIGINATE	RATE OF GROWTH OVER PRIOR PERIOD		
PERIOD	NK	FRG	UK	FRG
1972	5,313,081	2,347,788		
1973	6,875,536	2,853,221	29.4%	21.5%
First Half 1973	3,309,932	1,391,567		
First Half 1974	4,233,755	1,673,707	27.9%	20.3%

1978 the number of telex subscribers in the UK is expected to double and that the US Department of Commerce has projected that the volume of US international communications will increase at a compounded annual rate of growth of 25% until at least the year 1980.*/

Associated with (and indeed caused by) this rapid growth of US-Europe telex traffic there has been a continuing decline in the quality of service due to network congestion.**

This congestion and the resulting deterioration in service is experienced during normal weekday office hours. Moreover, with the anticipated continued rapid growth of international telex, under present circumstances the congestion during peak weekday periods is likely to increase. To illustrate the problem of peak hour congestion, more than 84% of TRT's customer originated telex traffic from the US to the UK is transmitted between 9:00 a.m. and 7:00 p.m. and in excess of 90% of such traffic to the FRG is transmitted during this same time period.

The congestion implicit in these figures has a direct impact upon the costs associated with providing telex service. First, the telex circuits and switching systems of international record carriers (IRC's) must be designed to have sufficient capacity to carry traffic loads at peak periods. Second, congestion brings with it longer non-revenue-producing holding times during which the IRC must pay Western Union Telegraph

^{*/} U.S. Industrial Outlook 1974-80, U.S. Department of Commerce, p. 281.

^{**/} CCITT Study Group III -- Contribution No. 12 (Dec. 1973).

Company (WUT) for domestic service without being able to charge the customer for international service.

To mitigate the need to expand the capacity of the telex network during the present period of high-cost, scarce investment capital and to reduce holding times, it would be advantageous to spread the present demand for telex, which now occurs mainly during certain peak periods of the workday, over a longer period of the day. TRT believes that this can effectively be accomplished through the introduction of reduced telex rates during evening, night and early morning periods of the day.

Moreover, by obtaining the economics implicit in improved equipment and circuit utilization and in reduced holding times, TRT believes that it can offer international telex off-peak service at charges to customers that reflect the lower costs of providing off-peak service. This in turn will meet the expressed needs of users for a lower cost off-peak service and will encourage the use of telex during off peak periods for communications now accommodated by other media, e.g., phone, mail, etc.

0

The subject of reduced international telex rates during light traffic periods has been under consideration for some time, and the International Chamber of Commerce, which represents the largest user group in the world, has strongly endorsed such rates:

The International Chamber of Commerce is convinced that the introduction of reduced night rates would stimulate users with message

switchers or staff on duty outside of normal office hours to store their non-urgent traffic until the end of the various busy periods. This would reflect the claims of many Administrations as advertized in the press that unattended reception is one of the most valuable characteristics of the telex system to a subscriber. Clearly, reduced rates would result in a better service for all during the day. Furthermore, it would improve equipment and circuit utilization for the Administration during the slack period of some 14 hours or longer, one of the reasons why the IVth Plenary Assembly at Mar del Plata recommended this study. */

During CCITT Study Group III meetings, the point has also been made that users frequently experience delays and other difficulties in obtaining telex connections within the European telex network during peak periods due to congestion. Since the peak morning period of telex calls to Europe from the east coast of the US coincides with the peak afternoon period of telex calls within Europe, the shift of US originated telex calls to Europe to off peak periods would serve to relieve some of the congestion during peak periods of the European telex network. Additionally, peak weekday periods of US originated international telex calls also generally coincide with the peak periods of use of The Western Union Telegraph Company (WUT) domestic telex network. Thus, shifting some of the US international telex calls originating within the WUT domestic telex network to lighter traffic periods will also serve to relieve the

^{*/} STUDY GROUP III - Contribution No. 12, December 1973

currently experienced peak period congestion within the US domestic telex network.

established precedent for the introduction of reduced evening and weekend rates to meet expressed user needs, relieve peak period congestion, stimulate demand during light traffic periods and offer rates more in line with the costs of providing service. At present person-to-person day rates for a three minute telephone call to the UK and the FRG are \$9.60 and \$12.00 respectively, while night and Sunday rates to these same countries are \$7.20 and \$9.00 respectively, or 25% lower than day rates. Since a substantial number of business concerns now operate with staffs on duty outside of normal office hours, TRT believes that its proposed reduced experimental evening and weekend international Telex rates will provide benefits similar to those realized by users of Trans-Atlantic telephone service during light traffic periods.

Finally, TRT's proposed experimental reduction in evening and weekend Trans-Atlantic telex rates is consistent with the attitude toward rate innovation expressed by TRT in its application to provide direct service to the FRG. TRT stated there that it "would also intend to review its rate structure for international record carrier services periodically with a view towards reducing rates as circumstances warrant."

By the same token, proposed experimental rates are also consistent with the Commission's consistent recognition that additional competition in international telecommunications markets will "serve the general purpose of maintaining good service and improving it." (FCC 74M-1588, Dec. 11, 1974, ¶ 20(c) re TRT FRG authority).

SUPPORT FOR FILING

During an initial six-month period, the reduced experimental rate levels for international telex service during night and weekend time periods will be offered from the US to only two foreign countries. Limiting the experimental tariff filing to two countries will facilitate and minimize tracking of the data that will be required to evaluate the effects of the reduced rate levels on the distribution of telex traffic during the various hours of the day and on the revenues obtained from the service. Two countries were selected rather than one in order to develop comparison data to determine whether or not the study results are biased due to any atypical traffic characteristics associated with the distribution of telex traffic to one country.

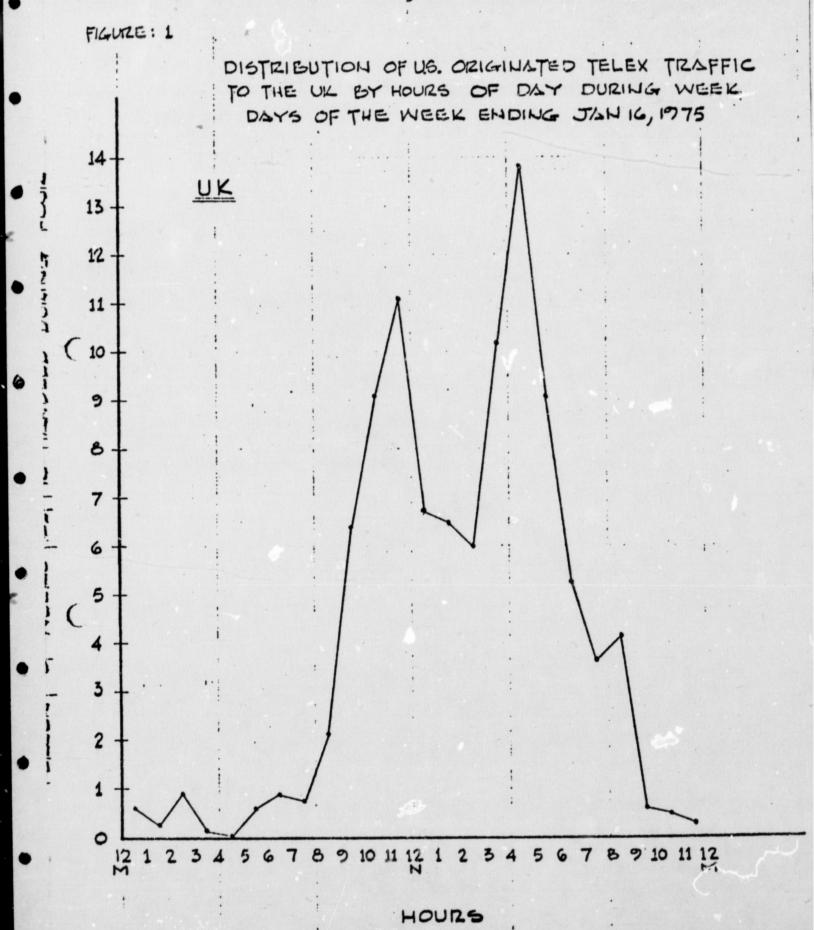
The UK and the FRG were selected as the two countries to which TRT plans to offer reduced experimental night and weekend rates for the following reasons: As discussed above, substantial congestion currently exists in the European telex network during the peak traffic hours of the day. Thus, to the extent that the proposed reduced rate levels divert telex traffic to early morning or evening periods from the US that would otherwise be transmitted during US morning peak hours (10 a.m. to 12 noon), which fall within the afternoon European peak hours (3 p.m. to 6 p.m.), such diversion will alleviate some of the congestion in the European telex network. Moreover, since the UK and the FRG represent TRT's two largest European markets, TRT will be able to obtain a greater amount of data pertaining to traffic distribution and customer reaction to the reduced rate levels to these two countries than to any other European markets. Also, the UK and the FRG represent TRT's two most recent direct circuit authorizations to Europe and, as discussed above, in its application to provide direct service to the FRG, TRT indicated that it would "review its rate structures for international record carrier services periodically with a view towards reducing rates as circumstances warrant."

on Monday through Thursday was selected as the period during which the reduced experimental rates would apply based upon the

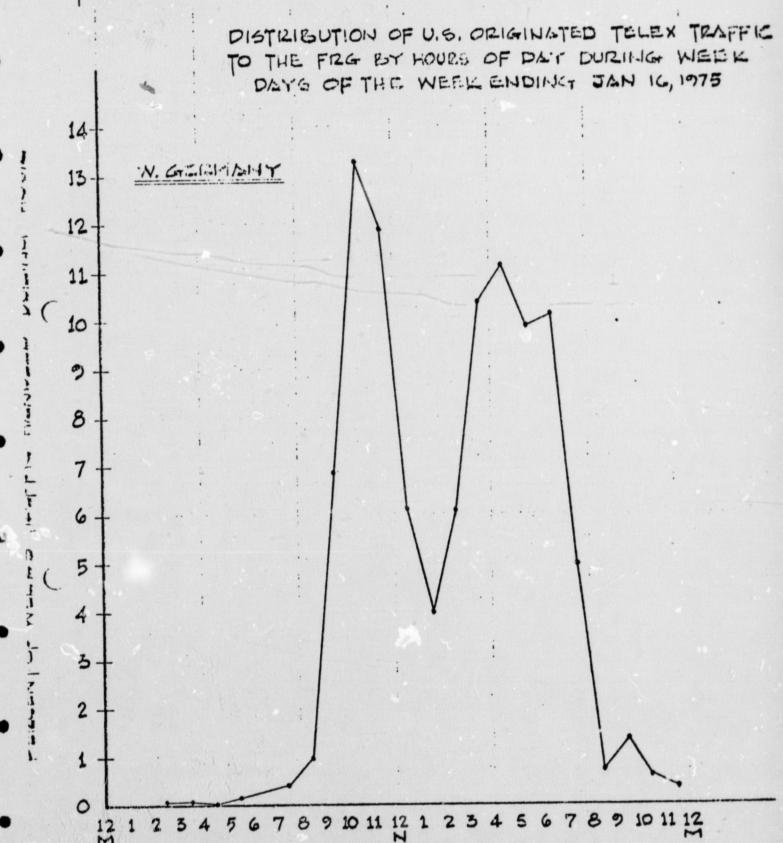
results of a study of TRT's traffic distribution to the UK and the FRG for Monday through Friday of the week ending January 16, 1975. The results of that study which are shown on figures 1 and 2 and Tables 1 indicate that only fifteen percent of TRT's telex traffic to the UK and ten percent of TRT's telex traffic to the FRG is transmitted between the hours of 7 p.m. and 9 a.m. on Monday through Friday. Additionally, it can be seen that the peak telex traffic hours on normal workdays occur between the hours of 10 a.m. and 12 noon and between approximately 3 p.m. and 6 p.m. Prior to 9 a.m. and after 7 p.m. on weekdays, relatively small volumes of traffic are handled.

Since extremely light amounts of telex traffic are generally handled on weekends, TRT also plans to offer the reduced experimental rate levels during this period. On the Saturday and Sunday of the week ending January 16, 1975, TRT transmitted only 55.6 minutes and 47.3 minutes of traffic to the UK and the FRG respectively.

The reduced experimental rate level of \$2.00 that will apply during an initial six-month period to US originated telex traffic destined to the UK and the FRG was developed based upon considerations relating to (1) cost savings; (2) telex revenue profit contribution; (3) market analysis and (4) potential revenue loss.



FIGULTE: 2



HOURS

TABLE 2

PERCENTAGE DISTRIBUTION OF US ORIGINATED TRAFFIC
TO THE UK AND THE FRG BY HOUR OF DAY DURING WEEKDAYS OF THE
WEEK ENDING JANUARY 16, 1975

Percentage of Daily Traffic Handled During Hour To:

<u>uk</u>	FRG
0.7%	0.0%
0.3	0.0
0.9	0.1
0.2	0.1
0.1	0.0
0.6	0.2
0.9	0.0
0.7	0.4
2.2	1.0
6.4	6.9
9.1	13.3
11.1	11.9
6.7	6.2
6.5	4.0
6.0	6.1
10.2	10.4
13.8	11.2
9.1	9.9
5.3	10.2
.3.6	5.0
4.2	0.7
0.6	1.4
0.5	0.6
0.3	0.4
	0.7% 0.3 0.9 0.2 0.1 0.6 0.9 0.7 2.2 6.4 9.1 11.1 6.7 6.5 6.0 10.2 13.8 9.1 5.3 3.6 4.2 0.6 0.5

The cost savings attributable to transmitting US originated international telex calls during light traffic periods relate primarily to reducing the payout to WUT associated with non-revenue producing "holding times" on the domestic network. At the present time, TRT is billed by WUT at the rate of approximately \$0.31 per minute for each minute that a WUT subscriber is connected to TRT's Fort Lauderdale telex computer, no matter how much additional time is required for TRT to effectuate a connection to the overseas called party, or, indeed, no matter whether TRT is even able to make connection with the overseas party. However, TRT only bills the US subscriber for "connect time" which represents the actual minutes during which the domestic subscriber is connected to the overseas called party. Consequently, for every minute that TRT is unable to establish international connections, whether through congestion or otherwise, it must absorb a \$0.31 WUT telex charge.

During peak international telex traffic periods, TRT
experiences holding times greater than those experienced
during lighter traffic periods, both because of greater congestion of circuits and because the telex machine being
called is more likely to be busy during peak periods. To
measure the difference in holding times between peak traffic
and off-peak traffic periods, TRT performed a special two-day
study on traffic to the UK and the FRG during the same week
as the traffic distribution study described above was performed.

The results of that study indicate that on weekdays during the hours of 9 a.m. and 7 p.m., the total minutes of hold time plus connect time divided by the total minutes of connect time yielded a ratio of 1.87, while the same ratio during the period from 7 p.m. to 9 a.m. was only 1.36.

Thus, on the average, TRT pays WUT approximately \$0.58(0.31x1.87) per minute for each minute that TRT bills its domestic customers during the weekday period of 9 a.m. to 7 p.m., while during the weekday period of 7 p.m. to 9 a.m. TRT pays WUTCO approximately \$0.42(0.31x1.36) per billable minute. Accordingly, TRT anticipates a net cost savings resulting from reduced payouts to WUT of approximately \$0.16 per minute associated with the off-peak telex traffic transmitted under the terms of this tariff.

with reduced holding times to result from an increase during off-peak periods in the "batching" of telex calls -- i.e., the transmission of more than one telex message during a single transmission. By way of example, if a customer in Miami accumulates four messages to send to its London branch office and defers their transmission to an off-peak hour, non-revenue-producing holding time will be incurred only once with respect to the initial transmission of the four messages, instead of four times as would be the case if the messages were sent separately during various periods of the day. Assuming one

minute of holding time associated with each transmission and assuming that each of the messages would take one minute to transmit, TRT's payouts to WUT associated with the transmission of the four messages would be \$2.48, if transmitted separately, but only \$1.55 if transmitted in a single batch. This would represent a cost saving of about \$0.22 per message as a result of batching. Such a saving would be in addition to the cost saving resulting from reduced holding times arising out of lower congestion of the telex network.

Given the incentives created by off-peak pricing to defer message transmission, there would seem to be a strong likelihood that many of TRT's customers would utilize "batching" techniques during off-peak hours. Moreover, results of the customer survey conducted by TRT regarding the desirability of reduced night and weekend telex rates (discussed in greater detail below), indicated that a greater percentage of telex messages deferred for night transmission would be batched than if transmitted during peak weekday traffic hours. However, at this point, TRT is not able to quantify the actual cost saving that will result from message batching during off-peak hours. During the six-month period in which the reduced experimental rates will be in effect, TRT will attempt to quantify such cost savings.

After determining the average payout to WUT per billed minute of telex traffic to the UK and the FRG during

the weekday period of 7 p.m. to 9 a.m. in the manner described above, the next step in developing the experimental rate level was to establish a hypothetical rate that could be charged during this time period that would, after payouts to WUT and TRT's UK and FRG correspondents, yield to TRT no net revenue contribution to operations and overhead. At present accounting rates and division of tolls, TRT currently credits both the UK and the FRG approximately \$1.125 per minute of US originated telex traffic destined to these countries. During the six-month period in which the reduced experimental rates will be in effect, TRT will continue to credit its UK and FRG correspondents at this rate. Additionally, as discussed above, TRT, will pay WUT an average of \$2.42 per minute of billable telex traffic to these countries during off-peak periods. Therefore, the minimum rate level which would yield TRT no net revenue contribution to operations and overhead is approximately \$1.55 and is computed by summing the above payouts to WUT and to TRT's foreign correspondents.

The next step in determining the experimental rate level was to test customer responsiveness to reduced evening and early morning telex rates as an incentive to defer telex traffic to this time period. Based upon the existing 24 hours per day rate level of \$2.55 per minute for telex service to the UK and the FRG, TRT tested customer reaction to reduced rate levels of \$2.30 per minute (approximately a 10% reduction) and to \$2.00 per minute (approximately a 22% rate reduction). Of

the 97 customers that TRT contacted during this market survey, only a few indicated that they would defer any of their telex traffic at a 10% rate reduction. However, at a 22% reduction (the \$2.00 per minute rate), 23 of the 97 customers indicated that they would defer some of their telex traffic to the offpeak periods. Results of this market survey indicate that, of the approximately 2100 minutes of weekly telex traffic that these 23 customers currently originate to the UK and the FRG during the weekday periods of 9 a.m. and 7 p.m., approximately 1,000 minutes (or nearly 50%) would be deferred to the weekday periods of 7 p.m. and 9 a.m. Moreover, the study results indicate that these customers would also generate an additional 10% increase in off-peak telex traffic, by shifting from other communications media.

On this basis, TRT estimates that approximately 11.3% of its total customer traffic to the UK and the FRG now transmitted during weekday periods of 9 a.m. to 7 p.m. would be deferred to the lighter traffic period of 7 p.m. to 9 a.m. Thus, based upon the results of this market analysis, as well as the fact that TRT would realize a \$0.45 per minute net revenue contribution to cover operations and overhead costs at the reduced rate level, a \$2.00 rate is being proposed during the six-month experimental period.

 $[\]frac{23}{97} \text{ customers} \qquad \qquad \frac{1,000 \text{ minutes deferred}}{2,100 \text{ daytime minutes}} = 11.3$

Assuming 11.3% of its total peak-hour telex will
be diverted to lower rate off-peak hours, TRT estimates
that a maximum possible reduction of revenues during the
proposed six-month experimental period of \$770 per week.

(See the Attachment A, hereto). This revenue reduction,
represents only a 4.7% reduction in the revenues TRT estimates
that it would otherwise obtain during this period were it not
to institute the reduced experimental rates proposed herein.

TRT has not assumed that it will divert telex traffic from the other international record carriers (IRCs) during off-peak periods. Since the other IRCs have thousands of telex tie line subscribers in the New York, Washington, and San Francisco gateways which originate the bulk of the other IRCs' telex traffic and since these same telex tie line subscribers cannot access TRT's telex computer system through their IRC telex machines. TRT does not believe that any substantial diversion of revenue will occur during the six-month experimental period.

^{*/} TRT also anticipates minimal (i.e., less than \$2,000) costs associated with programming its telex computer to accommodate the billing procedures required for off-peak pricing of telex service.

^{**/} TRT does not anticipate any revenue reductions in its other service classifications -- i.e., public message or leased channels -- associated with this reduction of telex rates.

Summarizing, TRT believes that its proposed experimental tariff filing offering reduced rate levels for international telex traffic from the US to the UK and the FRG during night and weekend periods will serve the public interest in that this offering will (1) offer off-peak international telex service at charges reflecting the lower costs of providing this service, (2) encourage the use of telex during off-peak periods for communications now accommodated by other media, (3) meet the expressed needs of users, (4) alleviate existing domestic and international telex network congestion during peak traffic hours of the normal business day, and (5) improve the equipment and circuit utilization of the existing domestic, international and European telex networks. All of this will be accomplished by a reduced experimental rate of \$2.00 per minute which will still yield TRT a net revenue contribution to operations and overhead costs of \$. 45 per minute and will not significantly reduce TRT's international telex service revenues associated with UK and FRG traffic during the experimental six-month period.

In any event, the Commission will be able to evaluate carefully the manner in which TRT's proposed rates do serve the public interest. During the six-month period in which the reduced experimental rates will be in effect, TRT will closely monitor the effect of these night and weekend telex rates on users through additional traffic distribution, revenue and market studies. Prior to the expiration of the six-month

experimental period, TRT will make the results of these studies available to the Commission staff. Thereafter, the Commission can determine whether off-peak telex pricing should be encouraged in other international (or even domestic) markets.

DERIVATION OF MAXIMUM POTENTIAL REVENUE REDUCTION ASSOCIATED WITH REDUCED EXPERIMENTAL NIGHT AND WEEKEND TELEX SERVICE RATE LEVELS TO THE UK AND THE FRG FOR AN EXPERIMENTAL SIX MONTH PERIOD

LINE	SOURCE	ITEM	AMOUNT
1	Notes 1 & 2	Total billable minutes of traffic to the UK and the FRG for the week ending 1/16/75	5,166.1
2	Notes 1,2,4	Billable minutes on Saturday and Sunday contained in amount on Line 1	102.9
3	L1-L2	Billable minutes during Monday through Friday contained in amount of Line 1	5,063.2
4	Notes 1 - 4	Number of minutes on Line 3 transmitted between 7 p.m. and 9 a.m.	703.9
5	L3-L4	Number of minutes on Line 4 transmitted between 9 a.m. and 7 p.m.	4,359.3
6	L5 Note 5	Number of minutes on Line 5 that will be deferred to night transmission as a result of reduced rate	492.6
7	L6 Note 6	New nighttime telex business minutes as a result of reduced rate	49.3
8	Note 7	TRT net retained revenue for week ending 1/16/75 at current rates	\$4,781
9	Note 8	TRT net retained revenue for week ending 1/16/75 at current and reduced rate	\$4,162
10	L8-L9	TRT maximum possible revenue reduction for week ending 1/16/75	\$619
.11	Note 9	TRT maximum possible revenue reduction during six month experimental period	20,100

NOTES

- 1 UK and FRG traffic distribution study for the week ending January 16, 1975
- 2 UK 3489.8; FRG 1676.3
- 3 UK 55.6; FRG 47.3
- 4 9.9% and 15.8% of the weekday minutes to the FRG and the UK respectively were transmitted between the hours of 7 p.m. and 9 a.m.: (1676.3 47.3) x .099 + (3489.8 55.6) x .158
- 5 Based on the results of TRT's customer survey, TRT estimates that 11.3% (See footnote on page __) of weekday daytime traffic will be deferred for night transmission.(.113 x 4359.3)

NOTES (continued)

6 Based on the results of TRT's customer survey, TRT estimates that an additional 10% of new telex business, above the amount deferred for night transmission, will result from the reduced rate.

(.10 x 492.6)

7	Billable minutes L5; L2 & L4 Gross Revenue \$2.55/min	9 am - 7 pm 4,539.3 \$11,116		pm - 9 am Weekends 806.8 \$2,058
	Foreign Payout 1.125/min WUTCO Payout \$0.58 and \$0.42 respec- tively assuming 10% of traffic origin	(\$4,904)		(\$908) (\$305)
	nates from TRT tielines TRT Net Retained Revenue	\$3,936	\$4,781	\$845
8	Billable minutes L5-L6; L2, 4, 6, 7 Gross Revenue \$2.55/min; \$2.00/min Foreign Payout 1.125/min WUTCO Payout \$0.58 and \$0.42 respec- tively assuming 10% of traffic origi	3,866.7 \$9,860 (\$4,350)		1,348.7 \$2,697 (\$1,517)
	nates from TRT tielines TRT Net Retained Revenue	(\$2,018) \$3,492	\$4,162	(\$510) \$670

		AMOUNT
9	TRT projected revenue during six month period at present rate (\$13,174 x 26 weeks x 1.25 (growth factor)	\$428,200
	TRT projected revenue during six month period at proposed rates (26 weeks x 1.25 (growth factor)	\$408,100
	Maximum possible revenue reduction during six month period	\$ 20,100
	Average maximum possible revenue reduction per week during six month period	\$770

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C 20554

In the Matter of	1
TRT TELECOMMUNICATIONS CORPORATION	;
Proposed Revisions to Tariff F.C.C. No. 64 for Telex Service Between	}
the United States and the United Kingdom and the United States and	•)
The Federal Republic of Germany.)

PETITION FOR SUSPENSION AND INVESTIGATION

ITT World Communications Inc. (ITT Worldcom) pursuant to Section 1.773 of the Commission's Rules and Regulations hereby requests that the tariff revisions filed by TRT Telecommunications Corporation (TRT) under Transmittal No. 684, dated March 24, 1975, be suspended, and that the Commission initiate an inquiry with respect to the justness and reasonableness of the proposed revisions.

Notwithstanding TRT's right to "re-evaluate the status 1/quo in an attempt to provide improved service at reduced rates,"

Letter from President and Chief Executive Officer of TRT to Chairman, Federal Communications Commission, dated March 24, 1975, p. 1.

ITT Worldcom believes that any rate initiatives or other "innovations" proposed by TRT must be in accordance with the Communications Act of 1934, as amended, (Act) and the Commission's Rules and Regulations. The proposed tariff revisions are clearly discriminatory in violation of Section 202(a) of the Act.

According to TRT's transmittal letter, the purpose of the experimental tariff revisions filed by TRT is to offer "off-peak international telex service at reduced charges...encourage the use of telex during light traffic periods...[and] alleviate existing...congestion during peak traffic hours." Essentially the same rubric was used by TRT's President in his letter to the Chairman in which he characterized "off-peak hours" as being "between 7 p.m. and 9 a.m. weekdays and between 7 p.m.

Friday and 9 a.m. Monday on weekends."

^{2/} Letter from TRT's Director - Rates & Tariffs to Secretary, Federal Communications Commission dated March 24, 1975, p. 1.

^{3/} Letter from President and Chief Executive Officer of TRT to Chairman, Federal Communications Commission dated March 24, 1975, p. 1.

What this letter did <u>not</u> say was that the proposed tariff revisions filed by TRT define the "off-peak" period, during which the reduced rates proposed by TRT would apply, in terms of Eastern Standard Time (EST) or Eastern Daylight Savings Time (EDT).

In ITT Worldcom's view, the plain meaning of the term

"off-peak" service is service which is furnished before or after

normal business hours. In most places normal business hours

start between 8:30 and 9:30 a.m. and end between 4:30 and

5:30 p.m. Because TRT proposes to offer its experimental reduced

telex rates during "off-peak" hours calculated in terms of EST cr

EDT, if these rates are implemented, a customer on the West

Coast would have the ability to send telex messages during one

of the busiest hours of the normal business day, i.e., from

See TRT Telecommunications Corporation's Tariff F.C.C. No. 64, 7th Revised Page No. 10.

Indeed, Table 2 (p. 11) of the explanatory material filed by TRT in support of its proposed tariff revisions shows that during the representative week analyzed by TRT, 13.8% of its total traffic to the U.K. was filed between the hours of 4 and 5 p.m.—the highest volume transmitted during any hour of the day. An internal traffic loading study conducted by ITT Worldcom also indicates that more traffic is transmitted between 4 p.m to 5 p.m. than any other hour of the day.

4 p.m. to 5 p.m., at reduced rates which would not be available to East Coast customers during the normal business day.

This, in ITT Worldcom's view, is clearly discriminatory.

Moreover, it is unclear from TRT's filing as to whether its "STORETEX" option would be available to "off-peak" telex users. As ITT Worldcom reads TRT's tariff, there is nothing to preclude an off-peak telex customer from transmitting its traffic to TRT before 9 a.m. EST or EDT, and by reason of the store-and-forward aspect of TRT's "STORETEX" option, such traffic could be forwarded to the addressee after 9 a.m. EST or EDT, at "off-peak" rates. Or if the time of call completion determines the rate applicable to "STORETEX" traffic, telex transmission to TRT before 7 p.m. EST or EDT could be delivered and charged as "off-peak" traffic.

Moreover, if TRT proposes to utilize its "STORETEX" option in connection with its proposed "off-peak" service, it should logically impose a surcharge since, as TRT has stated "while net store and forward revenue is zero, costs of providing the service are considerable."

^{6/} TRT written response to Commission questions in Docket No. 19256, dated December 4, 1972, p. 6.

In the explanatory material filed in support of the proposed revisions, TRT makes much of the fact that the International Chamber of Commerce requested CCITT Study Group III to consider the desirability of reducing international telex rates during light traffic periods and quotes at length from CCITT Study Group III, 2/Contribution No. 12, dated December, 1973. However, TRT studiously avoids any mention of the formal position taken by the U.S. delegation to CCITT with respect to this question. The letter, dated December 19, 1974, from Richard T. Black of the State Department, who was Chairman of the U.S. CCITT National Committee, to Mr. J. F. Pedersen, rapporteur-coordinator of CCITT Study Group III, states:

The United States believes that there is no apparent benefit at this time in considering Question 7/III in an intercontinental context and that resolution can be more quickly and easily reached if it is considered only as a continental problem. If this suggestion is adopted, Administration[s] will not have to ponder the problem of determining off-peak hours in the case of service

See TRT "Reasons for Filing" annexed to Transmittal No. 684, dated March 24, 1975, pp. 3-4.

As a member of the U.S. delegation, TRT then agreed with the formal position of the United States.

between the United States and Europe, for example, where 5 hours minimum time differential exists. Furthermore, regional groups, such as TEUREM, would be able to consider the question within a narrower context, as it relates to a particular geographical area if intercontinental considerations are set aside. For these reasons, the United States proposes that Question 7/III be considered and resolved on a regional basis by the individual regional tariff groups." (emphasis added)

Not only has TRT unilaterally departed from the U.S. position by proposing intercontinental "off peak" telex rates, but it is ITT Worldcom's understanding that it filed tariff revisions providing for such rates without prior consultation with the foreign administrations involved.

traffic originating in the U.S. without first negotiating appropriate changes in the accounting rates for this traffic creates a dangerous and ill-considered precedent which can adversely affect both the U.S. ratepayers and the U.S. balance of payments vis-a-vis foreign administrations. If a carrier unilaterally reduces its outbound rates and its foreign correspondents insist on the maintenance of existing accounting rates, there will be an

adverse effect on the revenues of the U.S. carrier much in excess of the proposed rate reduction.

The method by which TRT has implemented this "innovation" should be the subject of Commission inquiry. Indeed, in opposing TRT's application for authority to provide direct service to the United Kingdom, ITT Worldcom called the Commission's attention to the dangers of TRT's "deal at any cost" philosophy of making agreements with foreign administrations. ITT Worldcom pointed out that in making an interconnection agreement with the BPO, TRT had agreed to an increase by BPO in its terminal tax without any increase in the corresponding charge on the U.S. end of the circuit"—a change which the BPO had long sought and other U.S. international record carriers had vigorously opposed.

^{9/} ITT Worldcom Reply in File No. T-C-2335-3, dated July 27, 1973, p. 6.

philosophy created a situation where "whipsaw" tactics could be used by a foreign administration against U.S. international 10/carriers. In recognition of this problem, the Commission's de-11/cision authorizing TRT to provide direct service to the U.K.

(U.K. Order) specifically conditioned TRT's right to provide direct telegraph message service on TRT's submission to the Commission of "an operating agreement with the BPO which is consistent with similar agreements in effect between the BPO 12/and other U.S. carriers."

yet acted on its Petition for Reconsideration of the U.K. Order, which was filed over ten months ago. As ITT Worldcom pointed out on January 7, 1975, Section 405 of the Act and Section 1.106(j) of the Commission's Rules and Regulations require action on that petition within 90 days. In the circumstances, ITT Worldcom believes that elementary considerations of fairness require the

^{10/} ITT Worldcom Reply in File No. T-C-2335-3, dated July 27, 1973, p. 6.

^{11/ 46} F.C.C. 2d 1042 (1974).

^{12/} Id at 1056.

Commission to act on ITT Worldcom's aforesaid Petition for Reconsideration of the U.K. Order before TRT's "off-peak" telex rates are permitted to become effective.

posed rate reductions, in an area where TRT has nothing to lose, as evidence of its willingness to "innovate", TRT took a diametrically opposite position with respect to rate competition in the Bahamas—a market where TRT has a substantial number of customers. For example, in opposing ITT Worldcom's application to provide direct service to the Bahamas, TRT stated that the Commission "should inquire into the rates that ITT intends to set for transiting traffic that it obtains in competition with Tropical and the effects such rates, or lower rates that ITT might subsequently establish would have on ITT's quota for outbound traffic from the Bahamas." In response to this bleat, a benevolent Commission, in certificating ITT Worldcom to provide direct service to this market, ordered ITT Worldcom to:

"...advise the Commission and Tropical Radio Telegraph Co. that the rates of ITT

TRT's Reply Brief in File No. T-C-2227, dated May 5, 1969, p. 4.

World Communications Inc. for traffic it provides with Batelco transiting the United States and its toll retentions for traffic it provides with Batelco are the same as those of Tropical Radio Telegraph Co." 14/

And, in an apotheosis of protectionism, this order further provided:

"That as a condition to the grant of its application, ITT World Communications Inc. shall not change any of the rates or divisions of tolls referred to in the preceding paragraph, except to meet changes made by Tropical, until it has received permission from the Commission to do so." 15/

In ITT Worldcom's view, TRT cannot claim "fair is foul 16/ and foul is fair" by espousing laissez-faire competition in cases where it wishes to penetrate new markets at the expense of existing carriers and protectionism in markets where it desires to be

^{14/ 19} F.C.C. 2d 536,551 (1969).

^{15/} Id. ::

^{16/} Shakespeare, MacBeth, I, 1, 12.

TRT recently sought the ultimate in protectionism--immediate grant of a contested application for authority under Section 214 of the Act in order to compensate "the smallest" international record carrier for losses due to actions being taken by the Panamanian administration. See TRT Request for Immediate Action in File No. I-T-C-2605 dated March 28, 1974 [sic], p. 10.

shielded by the Commission from the possible adverse effects of competition. And any investigation of the proposed tariff revisions should include an issue regarding TRT's choice of foreign points for its "experiment."

In view of the foregoing, ITT Worldcom requests that the Commission suspend the proposed tariff revisions for the maximum period permitted by law and commence an investigation with respect to the discriminatory and ambiguous provisions of TRT's proposed tariff revisions. ITT Worldcom also requests that such investigation specifically address the question of whether it is in the public interest for a U.S. carrier to implement proposed rate reductions for outbound international telex traffic without first obtaining agreement of the interested foreign administrations to make appropriate adjustments in the applicable accounting rates.

Respectfully submitted,
ITT WORLD COMMUNICATIONS INC.

By

Joseph J. Jacobs

Its Attorney 67 Broad Street New York, N.Y. 10004

Dated: April 15, 1975

CERTIFICATE OF SERVICE

I, Kathleen E. Smith, certify that I have this 15th day of April, 1975 sent a copy of the foregoing "Petition for Suspension and Investigation" by United States mail, first class postage prepaid, to the following:

> Mr. Walter R. Hinchman Chief, Common Carrier Bureau Federal Communications Commission Washington, D.C. 20554

> David H. Lubetzky, Esq. Roderick A. Mette, Esq. TRT Telecommunications Corporation 1747 Pennsylvania Avenue, N.W. Washington, D.C. 20006

Francis J. DeRosa, Esq. RCA Global Communications, Inc. 60 Broad Street New York, N.Y. 10004

Robert Michelson, Esq. Western Union International, Inc. One W.U.I. Plaza New York, N.Y. 10004

Killeen E. Smith

All .

Before the FEDRAL COMMUNICATIONS COMMISSION Washington, D. C. 20554

In the Matter of
TRT TELECOMMUNICATIONS CORPORATION
Proposed Revisions to Tariff F.C.C.
No. 64 for Weekend and Night Telex Calls. Transmittal No. 684.

To: The Commission

PETITION FOR SUSPENSION AND INVESTIGATION

- 1. Western Union International, Inc. (WUI) hereby urges the Commission to suspend the above-captioned tariff amendments filed by TRT Telecommunications Corporation (TRT) and to institute a thorough investigation into the lawfulness and reasonableness of the proposed revisions.
- 2. TRT's proposal for a reduced rate to United Kingdom and Germany during alleged off-peak hours ignores the industry-wide efforts at international cooperation and consultation. Its ill-considered proposal diverges from officia. U.S. policy as recently expressed within CCITT. By unilaterally proposing a reduced rate for the early and late hours of the business day, TRT has endangered the established transatlantic and intra-European telex routing structure and the quality of international service. The reduced rate would introduce flagrant inequities based upon customers' geographic locations and would constitute an unlawful rate discrimination.

Unilateral TRT Action Is Contrary To CCITT Policy And To International Comity

- 3. TRT has acted unilaterally and, apparently without advance consultation with the British Post Office and German Administration in filing reduced rates for so-called off-peak periods keyed to U.S. Eastern Standard or Daylight Savings Time. Due to intercontinental time differences, the two Eurc, ean entities might incur resulting traffic congestion during their peak periods. For this very reason, CCITT policy dictates against intercontinental off-peak telex rates.
- 4. Not only has TRT flouted CCITT policy and international comity, but it seeks to violate Commission policy recently reaffirmed in Docket No. 18875:

"In carrying out our responsibilities regarding international communications we are keenly mindful of the fact that the United States is a party in interest in a broad community of many countries that also have concerns and responsibilities with regard to international communications systems which provide services among countries. It is therefore imperative that the Commission develop, adopt and review its policies regarding facilities required to serve U.S. needs in light of the international nature of such facilities and do so after full consideration of all factors involved and in consultation with the responsible entities in other countries."*

^{*}Further Notice of Inquiry, Feb. 25, 1975, FCC 75-181, para. 2.

5. TRT's action represents a departure from its position assumed in recently held meetings of the U.S.

CCITT National Committee, which adopted a United States policy position with regard to the question posed by CCITT Circular No. 75 of reduced telex rates during off-peak periods.* United States policy decided in the Study Group, as subsequently expressed in a letter to Mr. J. F. Pedersen, rapporteur-coordinator of CCITT Study Group III, states:

"The United States believes that there is no apparent benefit at this time in considering Question 7/III in an intercontinental context and that resolution can be more quickly and easily reached if it is considered as a continental problem.

If this question is adopted, Administrations will not have to ponder the problem of determining off-peak hours in the case of service between the United States and Europe, for example, where 5 hours minimum time differential exists. Furthermore, regional groups, such as TEUREM, would be able to consider the question within a narrower context, as it relates to a particular geographical area if intercontinental considerations are set aside. For these reasons, the United States proposes that Question 7/III will be considered and resolved on a regional basis by individual regional tariff groups.'

^{*}The minutes of that meeting recorded and reported by Mr. Robert E. Stromberg for the Commission, dated January 8, 1975, do not note any dissents from the policy position adopted.

^{**}Letter of Mr. Richard T. Black, Chairman, U.S. CCITT National Committee, dated December 19, 1974.

- 6. Furthermore, the TRT tariff filing and the manner in which it is to be implemented, differs significantly from the CCITT Study Group III draft recommendations* regarding telex rate reductions during light traffic periods. It was recommended that:
- (a) "The percentage reduction should be fixed in agreement between the terminal Administrations concerned to avoid dissymmetry between the charges at the two extremities of a relation.
- (b) "When there is a time difference between two ends of the same relation, the reduced rate period will be determined on the basis of the local time in the country of origin of the tariff.
- (c) "In relations where the time difference is greater than 3 hours, the night reduced rate shall not be applied in the country of origin so long as the busy period has not yet ended in the country of destination."
- 7. It was further suggested that the initiation of reduced rates in intercontinental relations should be effected by bilateral or multilateral agreement.
- 8. TRT adopted its reduced rate proposal, presumably in disregard of recommendation (a) that such programs be subject to bilateral or multilateral agreement, and of recommendation (c) regarding a maximum 3-hour time differential. The time difference is five hours and six

^{*}Report By CCITT Study Group III to Study Group I - CCITT Com. I, No. 31.

hours respectively between the United States, on the one hand and the United Kingdom and Germany, on the other hand. TRT's off-peak rate will be in effect in the United States during a period which in the United Kingdom and Germany includes peak period traffic.

- 9. TRT quoted extensively from the comments of the International Chamber of Commerce filed with CCITT Study Group 1 f as Contribution No. 12, dated December, 1973, as a source of support for the introduction of reduced night rates. However, TRT failed to state that the International Chamber also urged that implementation of reduced rates be on a "bilateral or multilateral basis in those relations where technical conditions permit."
- 10. Since TRT's so called off-peak time schedule is geared only to United States Eastern time, without regard for or consideration of business hours in the United Kingdom and Germany, the TRT plan threaten overseas entities with loss of telex revenues.
- 11. TRT's weekday "off-peak" hours begin at 7 P.M. and end at 9 A.M. U.S. Eastern time, which in the United Kingdom corresponds to 12 Midnight to 2 P.M., and in Germany to 1 A.M. to 3 P.M. Many U.S. telex users might be encouraged by the reduced rates to shift substantial amounts of traffic to the two hour time segment just prior to the end of TRT's off-peak schedule. Transmission within this time span

would be received in the United Kingdom between Noon and 2 P.M., and in Germany between 1 P.M. and 3 P.M. Resulting congestion on the intercontinental routes could well cause rerouting of traffic through transiting countries. This artificially induced transiting would cause a loss of revenue to the United Kingdom and Germany on U.S. originated traffic due to the necessity of paying transit charges.

22. Similarly, the reduced rate plan could shift the pattern of intercontinental and intra-Europe telex flow, with revenue benefits to United Kingdom and Germany at the expense of other European countries. A U.S. telex user could "batch"* much of his European traffic for transmission to the United Kingdom or Germany and have his correspondent there resend the messages to other European countries. The countries of true destination would lose their division of tolls for the transatlantic call. This arrangement would be financially attractive for calls destined to countries which can be reached from United Kingdom or Germany at a cost of less than 55¢ (the difference between the reduced transatlantic rate and the current transatlantic rate). This would apply to most European countries from the United Kingdom and from Germany.**

^{*}Reduced Experimental Rates for International Telex Service During Night and Weekend Periods To The United Kingdom and The Federal Rpublic-of-Germany, p. 13. TRT indicates it expects reduced rates during off-peak hours to encourage "'batching' of telex calls..."

^{**}See Appendix A.

13. TRT's proposal could impair the quality of intercontinental telex service. Because TRT's "off-peak" hours extend into regular business hours, telex users will tend to cluster their transmissions around the hours just after reduced rates go into effect and just before they terminate. This shifting of traffic loads would add to, and perhaps critically exacerbate, the existing early morning and late afternoon peaks for international traffic. For this very reason CCITT Study Group III has recommended that,

"In relations where the time difference is greater than 3 hours, the night reduced rate shall not be applied in the country of origin so long as the busy period has not yet ended in the country of destination."*

14. Instead of relieving the traffic congestion that TRT assumes to exist within the Western Union domestic telex system and on intercontinental routes at peak periods during regular business hours in the United States, TRT's proposal will cause the shifting and compression of traffic within the narrow time spans described above and, accordingly, will produce greater congestion than presently exists. This could impact on the existing circuitry and equipment to the detriment of both the U.S. and European telecommunications entities.

^{*}Report by CCITT Study Group III to Study Group I - CCITT Com. I, No. 31.

- 15. All of the foregoing impediments to international comity and detriments to the European telecommunications entities might compel them to adopt the same pattern of reduced rates in the west-bound direction. The adoption in Europe of off-peak rates during the hours between 7 P.M. and 9 A.M., European time, would result in considerable traffic congestion in the United States.
- 16. In New York, for example, the time would be 2 P.M. to 4 A.M. for service from the United Kingdom, and 1 P.M. to 3 A.M. for service from Germany. Thus the East Coast peak period would be included within the European off-peak period. Moreover, assuming that European users would "batch" their messages to be sent in the off-peak reduced rate period, the United States terminals would be congested during high-peak traffic hours in the United States because of the time difference between Europe and the United States. The full effect of such a situation is made remarkably clear when it is considered that in Germany the off-peak rates would begin at 7 F.M. and that the corresponding time in San Francisco, for example, is 10 A.M.
- 17. Conceivably, then, the introduction of reduced rates during off-peak traffic periods in the United States, if matched by rate reductions for off-peak telex traffic in Europe could have an effect entirely different than the

reduction of traffic congestion within the United States domestic telex network, within the European telex network, and between the United States and Europe, as predicted by TRT.

- 18. Moreover, under the TRT filing, assuming again that administrations in Europe initiated rate reductions for off-peak periods, customers could by pre-arrangement utilize off-peak rates at both sides of the Atlantic to send most of their traffic. For example, a United States customer could make a pre-arranged call at & A.M. Fastern Standard Time, an off-peak traffic hour in New York City, but a peak traffic hour in the United Kingdom, where it would be 1 P.M., and receive his European originated traffic during the European peak period, but at the reduced rate set by the TRT tariff filing. Conversely, if Europe applies reduced rates for non-peak traffic hours, a customer in the United Kingdom could make a pre-arranged call at 7 P.M. local time and thereby enable the United States customer to send his traffic at reduced rates during a peak period in the United States.
 - 19. TRT's unilateral proposal will clearly be disruptive of harmonious international relations and, accordingly, must not be permitted to become effective.

TRT TARIFF PROPOSAL IS NOT TRULY AN OFF-PEAK HOURS SLRVICE

- 20. TRT's characterization of its service offering in F.C.C. Tariff No. 64 as an off-peak service is a misnomer. Reduced rates will be available to United States telex users in the Eastern time zone beginning at 7 P.M. and ending at 9 A.M.; in the Central time zone at 6 P.M., ending at 8 A.M.; in the Mountain zone at 5 P.M., ending at 7 A.M.; and in the Pacific zone at 4 P.M. and ending at 6 A.M.
- 21. TRT misplaces its reliance on transatlantic telephone service as a precedent for its introduction of reduced rates during evenings and weekend. In telephone services, including transatlantic service, the "time -standard or daylight savings -- observed at the location of the rate center of the calling station, determines whether Day, Evening, Night, Late Night, Saturday or Sunday rates apply. "* TRT, as noted above, uses Eastern standard or daylight time and not the local time at the call origination location to determine whether reduced rates apply. In so doing, TRT has put telex users on the west coast in the Pacific time zone in a preferred position, insofar as they are allowed reduced rates during the course of the normal business day, in a heavy peak hour, 4 P.M. to 5 P.M.

^{*}See AT&T Tariff F.C.C. No. 263, 3rd Revised Page 120 \$3. 3.7(e)(4)(a).

TRT'S PROPOSAL RESULTS IN INEQUITIES AND UNLAWFUL DISCRIMINATION

- assume four companies -- one located in each U.S. time zone. All four have normal business hours ending at 5 P.M. local time. In order to take advantage of the reduced rate, the company in the Eastern time zone will have to keep the telex operator on for two extra hours; in the central time zone for one extra hour; in the mountain time zone for a few minutes; and in the Pacific time zone the call can be comfortably placed at 4:00 in the afternoon. This geographic discrimination extends to TRT's own two gateways. A TRT subscriber in Miami can send his traffic a few minutes before 9 A.M., but a TRT subscriber in New Orleans must have his operator at work before 8 A.M.
- 23. The geographic discrimination of TRT's proposal adds to the inequity inherent in a true off-peak service; large subscribers, who have around-the-clock operations, are more easily able to take advantage of off-peak rates than smaller subscribers.
- offering of like services at discriminatory rates is unlawful. There can be no issue with respect to "like" services. The service is absolutely identical. TRT has

merely proposed a discriminatory rate for telex service.

Discrimination in charges between like services has been held unlawful by the Commission under Sections 201(b) and/or 202(a) of the Communications Act in, inter alia, 48 kHz, 29 F.C.C. 2d 493 (1971); Telpak, 38 F.C.C. 370 (1965); American Telephone and Telegraph Company and Western Union Private Line Cases, 34 F.C.C. 207 (1963); and Telegraph Division Order No. 12, Timed Wire Service Classification, 9 F.C.C. 190 (1942).

TRT IS IN VIOLATION OF COMMISSION RULES

- 25. TRT's proposed tariff contains changed matter and, as such, is fully subject to Section 61.38 of the Rules, which requires:
 - "(i) For changed matter, a cost of service study for all elements of costs for the most recent 12-month period; and for changed and new matter, a study containing a projection of costs for a 3-year period beginning at the date of of the filing of the tariff matter; and
 - (ii) Estimates of the effects of the changed or new matter upon the carrier's traffic and revenues from the service to which the changed or new matter applies; upon the traffic and revenues from the other service classifications of the carriers; and upon the overall traffic and revenues of the carrier. Estimates should include the estimated effects on the traffic and revenue data for the most recent 12-month period and projections for a 3-year period beginning at the date of the filing of the changed or new matter. Complete explanations of the bases for the estimates should be provided."

- 26. Notwithstanding the precise nature of these requirements and their obvious applicability to just such a tariff as the instant proposal, TRT has made only the most cursory showing in the form of supporting data. Instead, TRT has requested the Commission to waive, for the moment, its non-compliance with the aforementioned requirements of the Rules.
- 27. The substantial danger of detrimental consequences from this filing requires a more complete submission, permitting fuller review. For example, TRT fails to consider the effect of the proposed service on "Stortex",* its deferred telex service, and on its multiple address/common text telex service.
- 28. Furthermore, the question arises as to whether these store and forward services will also be provided at reduced rates. This is a vital question. Will it be possible for a subscriber to forward traffic to TRT prior to 7 P.M., to be held until off-peak hours to obtain the benefit of the reduced rates? These kinds of complications would make even more difficult the Commission's long awaited review of store and forward services.

^{*}See TRT F.C.C. Tariff No. 64, 10th Revised Page No. 7A, Section 12(a) and (b) respectively, for a description of Stortex and multiple-address/common-text services.

- 29. TRT failed to provide this information contrary to Section 61.55(g) of the Communication's Rules, which requires the carrier to make a "clear and definite statement of the general rules, regulations exceptions and conditions which govern the tariff". (Emphasis added).
- 30. The above described failures to comply with the Commission's tariff rules require rejection or suspension of TRT's filing. See Mebane Telephone Co. case.*
- 31. Moreover, although TRT bases its requested waiver on the experimental character of its proposal, the Commission is not provided with sufficient data to precisely ascertain that the experiment will be a worthwhile endeavor. At no point in its filing does TRT fully and adequately describe the parameters of its study. TRT's most explicit statement in this regard is as follows:

"During an initial six-month period, the reduced experimental rate levels for international telex service during night and weekend time periods will be offered from the U.S. to only two foreign countries. Limiting the experimental tariff filing to two countries will facilitate and minimize tracking of the data that will be required to evaluate the effects of the reduced rate levels on the distribution of telex traffic during the various hours of the day and on revenues obtained from the service."**

[&]quot;Concluding that the tariff exception filed by AT&T on behalf of the Mebane, N.C., Telephone Co. violates F.C.C. rules relating to 'clear and explicit' tariff language, the F.C.C. Common Carrier Bureau has rejected the filing." Telecommunications Reports, March 10, 1975, page 6.

^{**}Reduced Experimental Rates for International Telex Service

During Night and Weekend Periods To the United Kingdom and

The Federal Republic of Germany, p. 1.

- 32. The Commission is faced with a number of questions regarding the value of the "study". For example:
 - Precisely, what is the study design TRT intends to use in the conduct of its experiment?
 - 2. Does TRT intend to measure the impact of its off-peak reduced rate program on intercontinental and intra-Europe traffic flow?
 - 3. Does TRT have detailed documented assurance of the foreign entities that they will cooperate by following an agreed upon format for the collection and analysis of data?
 - 4. If the foreign entities have assured their cooperation, what are the specific monitoring and reporting criteria agreed to?
 - of its off-peak reduced rate program on traffic patterns within the domestic U.S. telex system and does it have detailed documented assurance of the Western Union Telegraph Company that it will cooperate and follow a uniform format for the collection and analysis of data?
 - 6. Will TRT measure the impact upon other telecommunication services?
 - 7. How will TRT determine what portion of its telex traffic has been diverted from other international record services? From telephone? From mail?
 - 8. Now will TRT determine what portion of its telex traffic has been diverted from competing carriers?

33. TRT must provide sufficient information to assure the Commission that the proposed experiment will be designed, managed and monitored to provide an efficient, accurate, guage of the impact of off-peak hour reduced rates on the United States, intra-European and international relationships.

OFF-PEAK HOUR TELEX SERVICE IS A SECTION 214 APPLICATION MATTER, NOT A SECTION 203 TARIFF MATTER

34. TRT's proposal is predicated upon service considerations involving telex network congestion and circuit facility loadings. Accordingly, the matter is best resolved in the context of a Section 214 Application. This procedure would enable the Commission to obtain all relevant information and to reach a reasoned decision freed from the pressure of TRT's proposed May 1, 1975 tariff effective date. Therefore, TRT's proposed amendments to Tariff No. 64 should be rejected, and TRT directed to file an application under Section 214 if it wishes to pursue this matter. Press Wireless, Inc. v. FCC, 25 FCC 1466, 264 F. 2d 372.

WHEREFORE, the Commission is respectfully requested to suspend and investigate TRT's proposed amendments to its Tariff F.C.C. No. 64.

Respectfully submitted,
WESTERN UNION INTERNATIONAL, INC.

By: Curtis E. Rodgers Its Attorney

> One WUI Plaza New York, New York 10004

April 17, 1975

APPENDIX A

<u>To</u>	From Germany \$ Per Minute	From United Kingdom \$ Per Minute
Austria	.28	.21
Belgium	.28	.175
Bulgaria	.48	.28
Czechoslovakia	.28	.21
Denmark	.28	.21
Faroe Island	.28	.21
Finland	. 32	.21
France	.28	.175
Germany - East		.21
Germany - West		.21
Greece	.36	.28
Hungary	.32	.28
'Iceland	.80	.28
Republic of Ireland	.36	max21
Italy	.32	.21
Luxembourg	.28	.175
Netherlands	.28	.175
Norway	.32	.21
Poland	.40	.21
Portugal	.36	.21

Roumania	.48	.28
Spain	.32	.21
Sweden	.32	.21
Switzerland	.28	.21
U.S.S.R.	.72	.28
Yugoslavia	.32	.21
United Vinadom	. 22.	

CERTIFICATE OF SERVICE

I, Mary Chin, certify that I have this 17th day of April, 1975 sent a copy of the foregoing "Petition for Suspension and Investigation" by United States mail, postage prepaid, to the following:

Mr. Walter R. Hinchman Chief, Common Carrier Bureau Federal Communications Commission Washington, D.C. 20554

David H. Lubetzky, Esq.
Roderick A. Mette, Esq.
TRT Telecommunications Corporation
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Washington, D.C. 20006

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ITT World Communications Inc.

67 Broad Street

New York, New York 10004

Francis J. DeRosa, Esq.
RCA Global Communications, Inc.
60 Broad Street
New York, New York 10004

/s/ Mary Chin

Before the FEDERAL COMMUNICATIONS COMMISSION Washington D.C. 20554

All

In the Matter of

TRT TELECOMMUNICATIONS CORPORATION

Proposed Revisions to Tariff F.C.C.

No. 64 for Weekend and Night Telex

Calls. Transmittal No. 684.

To: Common Carrier Bureau

PETITION FOR REJECTION

- Western Union International, Inc. (WUI) hereby requests that the above-captioned tariff filed by TRT Telecommunications Corporation (TRT) be rejected.
- 2. TRT's proposal for a reduced rate to United
 Kingdom and Germany during alleged off-peak hours ignores
 the industry-wide efforts at international cooperation
 and consultation. Its ill-considered proposal diverges
 from official U.S. policy as recently expressed within
 CCITT. By unilaterally proposing reduced rate for the
 early and late hours of the business day, TRT has endangered the established transatlantic and intra-European
 telex routing structure and the quality of international
 service. The reduced rate would introduce flagrant inequities based upon customers' geographic locations and
 would constitute an unlawful rate discrimination.

Unilateral TRT Action Is Contrary To CCITT Policy And To International Comity

- 3. TRT has acted unilaterally and, apparently without advance consultation with the British Post Office and German Administration in filing reduced rates for so-called off-peak periods keyed to U.S. Eastern Standard or Daylight Savings Time. Due to intercontinental time differences, the two European entities might incur resulting traffic congestion during their peak periods. For this very reason, CCITT policy dictates against intercontinental off-peak telex rates.
- 4. Not only has TRT flouted CCITT policy and international comity, but it seeks to violate Commission policy recently reaffirmed in Docket No. 18875:

"In carrying out our responsibilities regarding international communications we are keenly mindful of the fact that the United States is a party in interest in a broad community of many countries that also have concerns and responsibilities with regard to international communications systems which provide services among countries. It is therefore imperative that the Commission develop, adopt and review its policies regarding facilities required to serve U.S. needs in light of the international nature of such facilities and do so after full consideration of all factors involved and in consultation with the responsible entities in other countries."*

^{*}Further Notice of Inquiry, Feb. 25, 1975, FCC 75-181, para. 2.

5. TRT's action represents a departure from its position assumed in recently held meetings of the U.S. CCITT National Committee, which adopted a United States policy position with regard to the question posed by CCITT Circular No. 75 of reduced telex rates during off-peak periods.* United States policy decided in the Study Group, as subsequently expressed in a letter to Mr. J. F. Pedersen, rapporteur-coordinator of CCITT Study Group III, states:

"The United States believes that there is no apparent benefit at this time in considering Question 7/III in an intercontinental context and that resolution can be more quickly and easily reached if it is considered as a continental problem.

If this question is adopted, Administrations will not have to ponder the problem of determining off-peak hours in the case of service between the United States and Europe, for example, where 5 hours minimum time differential exists. Furthermore, regional groups, such as TEUREM, would be able to consider the question within a narrower context, as it relates to a particular geographical area if intercontinental considerations are set aside. For these reasons, the United States proposes that Question 7/III will be considered and resolved on a regional basis by individual regional tariff groups."

^{*}The minutes of that meeting recorded and reported by Mr. Robert E. Stromberg for the Commission, dated January 8, 1975, do not note any dissents from the policy position adopted.

^{**}Letter of Mr. Richard T. Black, Chairman, U.S. CCITT National Committee, dated December 19, 1974.

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- 6. Furthermore, the TRT tariff filing and the manner in which it is to be implemented, differs significantly from the CCITT Study Group III draft recommendations* regarding telex rate reductions during light traffic periods. It was recommended that:
- (a) "The percentage reduction should be fixed in agreement between the terminal Administrations concerned to avoid dissymmetry between the charges at the two extremities of a relation.
- (b) "When there is a time difference between two ends of the same relation, the reduced rate period will be determined on the basis of the local time in the country of origin of the tariff.
- (c) "In relations where the time difference is greater than 3 hours, the night reduced rate shall not be applied in the country of origin so long as the busy period has not yet ended in the country of destination."
- 7. It was further suggested that the initiation of reduced rates in intercontinental relations should be effected by bilateral or multilateral agreement.
- 8. TRT adopted its reduced rate proposal, presumably in disregard of recommendation (a) that such programs be subject to bilateral or multilateral agreement, and of recommendation (c) regarding a maximum 3-hour time differential. The time difference is five hours and six

^{*}Report By CCITT Study Group III to Study Group I - CCITT Com. I, No. 31.

hours respectively between the United States, on the one hand and the United Kingdom and Germany, on the other hand. TRT's off-peak rate will be in effect in the United States during a period which in the United Kingdom and Germany includes peak period traffic.

- 9. TRT quoted extensively from the comments of the International Chamber of Commerce filed with CCITT Study Group III as Contribution No. 12, dated December, 1973, as a source of support for the introduction of reduced night rates. However, TRT failed to state that the International Chamber also urged that implementation of reduced rates be on a "bilateral or multilateral basis in those relations where technical conditions permit."
- 10. Since TRT's so called off-peak time schedule is geared only to United States Eastern time, without regard for or consideration of business hours in the United King-dom and Germany, the TRT plan threaten overseas entities with loss of telex revenues.
- 11. TRT's weekday "off-peak" hours begin at 7 P.M. and end at 9 A.M. U.S. Eastern time, which in the United Kingdom corresponds to 12 Midnight to 2 P.M., and in Germany to 1 A.M. to 3 P.M. Many U.S. telex users might be encouraged by the reduced rates to shift substantial amounts of traffic to the two hour time segment just prior to the end of TRT's off-peak schedule. Transmission within this time span

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would be received in the United Kingdom between Noon and 2 P.M., and in Germany between 1 P.M. and 3 P.M. Resulting congestion on the intercontinental routes could well cause rerouting of traffic through transiting countries. This artificially induced transiting would cause a loss of revenue to the United Kingdom and Germany on U.S. originated traffic due to the necessity of paying transit charges.

12. Similarly, the reduced rate plan could shift the pattern of intercontinental and intra-Europe telex flow, with revenue benefits to United Kingdom and Germany at the expense of other European countries. A U.S. telex user could "batch"* much of his European traffic for transmission to the United Kingdom or Germany and have his correspondent there resend the messages to other European countries. The countries of true destination would lose their division of tolls for the transatlantic call. This arrangement would be financially attractive for calls destined to countries which can be reached from United Kingdom or Germany at a cost of less than 55¢ (the difference between the reduced transatlantic rate and the current transatlantic rate). This would apply to most European countries from the United Kingdom and from Germany.**

^{*}Reduced Experimental Rates for International Telex Service
During Night and Weekend Periods To The United Kingdom and
The Federal Rpublic of Germany, p. 13. TRT indicates it
expects reduced rates during off-peak hours to encourage
"'batching' of telex calls..."

^{**}See Appendix A.

13. TRT's proposal could impair the quality of intercontinental telex service. Because TRT's "off-peak" hours extend into regular business hours, telex users will tend to cluster their transmissions around the hours just after reduced rates go into effect and just before they terminate. This shifting of traffic loads would add to, and perhaps critically exacerbate, the existing early morning and late afternoon peaks for international traffic. For this very reason CCITT Study Group III has recommended that,

"In relations where the time difference is greater than 3 hours, the night reduced rate shall not be applied in the country of origin so long as the busy period has not yet ended in the country of destination."*

14. Instead of relieving the traffic congestion that TRT assumes to exist within the Western Union domestic telex system and on intercontinental routes at peak periods during regular business hours in the United States, TRT's proposal will cause the shifting and compression of traffic within the narrow time spans described above and, accordingly, will produce greater congestion than presently exists. This could impact on the existing circuitry and equipment to the detriment of both the U.S. and European telecommunications entities.

^{*}Report by CCITT Study Group III to Study Group I - CCITT Com. I, No. 31.

reduced rates in the west-bound direction. The adoption in Europe of off-peak rates during the hours between 7 P.M.

and 9 A.M., European time, would result in considerable

traffic congestion in the United States.

16. In New York, for example, the time would be 2 P.M. to 4 A.M. for service from the United Kingdom, and 1 P.M. to 3 A.M. for service from Germany. Thus the East Coast peak period would be included within the European off-peak period. Moreover, assuming that European users would "batch" their messages to be sent in the off-peak reduced rate period, the United States terminals would be congested during high-peak traffic hours in the United States because of the time difference between Europe and the United States. The full effect of such a situation is made remarkably clear when it is considered that in Germany the off-peak rates would begin at 7 F.M. and that the corresponding time in San Francisco, for example, is

17. Conceivably, then, the introduction of reduced rates during off-peak traffic periods in the United States, if matched by rate reductions for off-peak telex traffic in Europe could have an effect entirely different than the

reduction of traffic congestion within the United States domestic telex network, within the European telex network, and between the United States and Europe, as predicted by TRT.

- 18. Moreover, under the TRT filing, assuming again that administrations in Europe initiated rate reductions for off-peak periods, customers could by pre-arrangement utilize off-peak rates at both sides of the Atlantic to send most of their traffic. For example, a United States customer could make a pre-arranged call at & A.M. Eastern Standard Time, an off-peak traffic hour in New York City, but a peak traffic hour in the United Kingdom, where it would be 1 P.M., and receive his European originated traffic during the European peak period, but at the reduced rate set by the TRT tariff filing. Conversely, if Europe applies reduced rates for non-peak traffic hours, a customer in the United Kingdom could make a pre-arranged call at 7 P.M. local time and thereby enable the United States customer to send his traffic at reduced rates during a peak period in the United States.
- 19. TRT's unilateral proposal will clearly be disruptive of harmonious international relations and, accordingly, must not be permitted to become effective.

TRT TARIFF PROPOSAL IS NOT TRULY AN OFF-PEAK HOURS SERVICE

- 20. TRT's characterization of its service offering in F.C.C. Tariff No. 64 as an off-peak service is a misnomer. Reduced rates will be available to United States telex users in the Eastern time zone beginning at 7 P.M. and ending at 9 A.M.; in the Central time zone at 6 P.M., ending at 8 A.M.; in the Mountain zone at 5 P.M., ending at 7 A.M.; and in the Pacific zone at 4 P.M. and ending at 6 A.M.
- telephone service as a precedent for its introduction of reduced rates during evenings and weekend. In telephone services, including transatlantic service, the "time -- standard or daylight savings -- observed at the location of the rate center of the calling station, determines whether Day, Evening, Night, Late Night, Saturday or Sunday rates apply."* TRT, as noted above, uses Eastern standard or daylight time and not the local time at the call origination location to determine whether reduced rates apply. In so doing, TRT has put telex users on the west coast in the Pacific time zone in a preferred position, insofar as they are allowed reduced rates during the course of the normal business day, in a heavy peak hour, 4 P.M. to 5 P.M.

^{*}See AT&T Tariff F.C.C. No. 263, 3rd Revised Page 120 §3. 3.7(c)(4)(a).

TRT'S PROPOSAL RESULTS IN INEQUITIES AND UNLAWFUL DISCRIMINATION

- assume four companies -- one located in each U.S. time zone. All four have normal business hours ending at 5 P.M. local time. In order to take advantage of the reduced rate, the company in the Eastern time zone will have to keep the telex operator on for two extra hours; in the central time zone for one extra hour; in the mountain time zone for a few minutes; and in the Pacific time zone the call can be comfortably placed at 4:00 in the afternoon. This geographic discrimination extends to TRT's own two gateways. A TRT subscriber in Miami can send his traffic a few minutes before 9 A.M., but a TRT subscriber in New Orleans must have his operator at work before 8 A.M.
- 23. The geographic discrimination of TRT's proposal adds to the inequity inherent in a true off-peak service; large subscribers, who have around-the-clock operations, are more easily able to take advantage of off-peak rates than smaller subscribers.
- 24. Under established Commission precedent, the offering of like services at discriminatory rates is unlawful. There can be no issue with respect to "like" services. The service is absolutely identical. TRT has

merely proposed a discriminatory rate for telex service. Discrimination in charges between like services has been held unlawful by the Commission under Sections 201(b) and/or 202(a) of the Communications Act in, inter alia, 48 kHz, 29 F.C.C. 2d 493 (1971); Telpak, 38 F.C.C. 370 (1965); American Telephone and Telegraph Company and Western Union Private Line Cases, 34 F.C.C. 207 (1963); and Telegraph Division Order No. 12, Timed Wire Service Classification, 9 F.C.C. 190 (1942).

TRT IS IN VIOLATION OF COMMISSION RULES

25. TRT's proposed tariff contains changed matter and, as such, is fully subject to Section 61.38 of the Rules, which requires:

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- "(i) For changed matter, a cost of service study for all elements of costs for the most recent 12-month period; and for changed and new matter, a study containing a projection of costs for a 3-year period beginning at the date of of the filing of the tariff matter; and
 - (ii) Estimates of the effects of the changed or new matter upon the carrier's traffic and evenues from the service to which the changed or new matter applies; upon the raffic and revenues from the other service classifications of the carriers; and upon the overall traffic and revenues of the carrier. Estimates should include the estimated effects on the traffic and revenue data for the most recent 12-month period and projections for a 3-year period beginning at the date of the filing of the changed or new matter. Complete explanations of the bases for the estimates should be provided."

- 26. Notwithstanding the precise nature of these requirements and their obvious applicability to just such a tariff as the instant proposal, TRT has made only the most cursory showing in the form of supporting data.

 Instead, TRT has requested the Commission to waive, for the moment, its non-compliance with the aforementioned requirements of the Rules.
- 27. The substantial danger of detrimental consequences from this filing requires a more complete submission, permitting fuller review. For example, TRT fails to consider the effect of the proposed service on "Stortex",* its deferred telex service, and on its multiple address/common text telex service.
- 28. Furthermore, the question arises as to whether these store and forward services will also be provided at reduced rates. This is a vital question. Will it be possible for a subscriber to forward traffic to TRT prior to 7 P.M., to be held until off-peak hours to obtain the benefit of the reduced rates? These kinds of complications would make even more difficult the Commission's long awaited review of store and forward services.

^{*}See TRT F.C.C. Tariff No. 64, 10th Revised Page No. 7A, Section 12(a) and (b) respectively, for a description of Stortex and multiple-address/common-text services.

- 29. TRT failed to provide this information contrary to Section 61.55(g) of the Communication's Rules, which requires the carrier to make a "clear and definite statement of the general rules, regulations exceptions and conditions which govern the tariff". (Emphasis added).
- 30. The above described failures to comply with the Commission's tariff rules require rejection or suspension of TRT's filing. See Mebane Telephone Co. case.*
- 31. Moreover, although TRT bases its requested waiver on the experimental character of its proposal, the Commission is not provided with sufficient data to precisely ascertain that the experiment will be a worthwhile endeavor. At no point in its filing does TRT fully and adequately describe the parameters of its study. TRT's most explicit statement in this regard is as follows:

"During an initial six-month period, the reduced experimental rate levels for international telex service during night and weekend time periods will be offered from the U.S. to only two foreign countries. Limiting the experimental tariff filing to two countries will facilitate and minimize tracking of the data that will be required to evaluate the effects of the reduced rate levels on the distribution of telex traffic during the various hours of the day and on revenues obtained from the service."**

^{*&}quot;Concluding that the tariff exception filed by AT&T on behalf of the Mebane, N.C., Telephone Co. violates F.C.C. rules relating to 'clear and explicit' tariff language, the F.C.C. Common Carrier Burcau has rejected the filing." Telecommunications Reports, March 10, 1975, page 6.

^{**}Reduced Experimental Pates for International Telex Service During Night and Weekend Periods To the United Kingdom and The Federal Republic of Germany, p. 1.

- 32. The Commission is faced with a number of questions regarding the value of the "study". For example:
 - Precisely, what is the study design TRT intends to use in the conduct of its experiment?
 - 2. Does TRT intend to measure the impact of its off-peak reduced rate program on intercontinental and intra-Europe traffic flow?
 - 3. Does TRT have detailed documented assurance of the foreign entities that they will cooperate by following an agreed upon format for the collection and analysis of data?
 - 4. If the foreign entities have assured their cooperation, what are the specific monitoring and reporting criteria agreed to?
 - of its off-peak reduced rate program on traffic patterns within the domestic U.S. telex system and does it have detailed documented assurance of the Western Union Telegraph Company that it will cooperate and follow a uniform format for the collection and analysis of data?
 - 6. Will TRT measure the impact upon other telecommunication services?
 - 7. How will TRT determine what portion of its telex traffic has been diverted from other international record services? From telephone? From mail?
 - 8. Now will TRT determine what portion of its telex traffic has been diverted from competing carriers?

33. TRT must provide sufficient information to assure the Commission that the proposed experiment will be designed, managed and monitored to provide an efficient, accurate, guage of the impact of off-peak hour reduced rates on the United States, intra-European and international relationships.

OFF-PEAK HOUR TELEX SERVICE IS A SECTION 214 APPLICATION MATTER, NOT A SECTION 203 TARIFF MATTER

34. TRT's proposal is predicated upon service considerations involving telex network congestion and circuit facility loadings. Accordingly, the matter is best resolved in the context of a Section 214 Application. This procedure would enable the Commission to obtain all relevant information and to reach a reasoned decision freed from the pressure of TRT's proposed May 1, 1975 tariff effective date. Therefore, TRT's proposed amendments to Tariff No. 64 should be rejected, and TRT directed to file an application under Section 214 if it wishes to pursue this matter. Press Wireless, Inc. v. FCC, 25 FCC 1466, 264 F. 2d 372.

WHEREFORE, it is respectfully requested that TRT's proposed amendments to its Tariff F.C.C. No. 64 be rejected.

Respectfully submitted,
WESTERN UNION INTERNATIONAL, INC.

By: Curtis E. Rodgers
Its Attorney

One WUI Plaza New York, New York 10004

April 17, 1975

APPENDIX A

<u>To</u>	From Germany \$ Per Minute		ited Kingdom r Minute
Austria	.28		.21
Belgium	.28		.175
Bulgaria	.48		.28
Czechoslovakia	.28		.21
Denmark	.28		.21
Faroe Island	.28		.21
Finland	. 32		.21
France	.28		.175
Germany - East			.21
Germany - West			.21
Greece	.36		.28
Hungary	.32		.28
Iceland	.80		.28
Republic of Ireland	.36	max.	. 21
Italy	. 32		.21
Luxembourg	.28		.175
Netherlands	.28		,175
Norway	.32		.21
Poland	.40		.21
Portugal	.36		.21

Roumania	.48	.28
Spain	.32	.21
Sweden	.32	.21
Switzerland	.28	.21
U.S.S.R.	.72	.28
Yugoslavia	. 32	.21
United Kingdom	32	

CERTIFICATE OF SERVICE

I, Mary Chin, certify that I have this 17th day of April, 1975 sent a copy of the foregoing "Petition for Rejection" by United States mail, postage prepaid to the following:

Mr. Walter R. Hinchman Chief, Common Carrier Eureau Federal Communications Commission Washington, D.C. 20554

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/s/ Mary Chin

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

JES W

In the Matter of

TRT TELECOMMUNICATIONS CORPORATION

Proposed revisions to its Tariff F.C.C. No. 64 establishing "off-peak hour" rates for international telex service between the continental United States, on the one hand, and the United Kingdom and the Federal Republic of Germany, on the other hand.

Docket No.

PETITION TO REJECT

RCA Global Communications, Inc. (RCA Globcom) hereby petitions the Commission to reject proposed revisions to Tariff F.C.C.

No. 64 of TRT Telecommunications Corporation (TRT), filed under

Letter of Transmittal No. 684, dated March 24, 1975, to become

effective May 1, 1975. The subject tariff filing would provide

for a \$.55 per minute reduction in the rate for international

telex calls from the United States (U.S.) to two overseas points,

the United Kingdom (U.K.) and the Federal Republic of Germany, when

such calls are connected during "off-peak" periods which are defined as

"between the hours of 7 p.m. and 9 a.m. EST or EDT Monday through Thursday and from 7 p.m. EST or EDT Friday through 9 a.m. EST or EDT Monday."*

^{*}llth revised page No. 10.

Summary Of Grounds To Reject

Although propounded as an "experimental" offering for a six-month period, if this tariff were allowed to become effective it would result in a fundamental change in international telex.

Under accepted principles of international communications practice applicable to both telex and telephone service, a new concept of service, which would have a far-reaching impact on the entire industry, should not be introduced without joint study and consultation between the U.S. carriers and their foreign correspondents. Furthermore, under TRT's proposal, the U.S. carrier will be required to absorb the full reduction itself. RCA Glöbcom accordingly submits it would be error for the Commission to approve such a major action solely on the basis of the instant tariff proposal by TRT, which presently handles less than 2 percent of total telex on the routes in question.

Allowing the TRT tariff to go into effect would also appear to be neither consistent with the agreements recently reached at Munich that the United States would work cooperatively with the European telecommunications entities and not depart on new courses unilaterally nor with the Commission's declared objectives in reopening Docket No. 18875.*

^{*}Further Notice of Inquiry, released February 25, 1975, FCC 75-181.

Apart from the foregoing considerations, RCA Globcom submits there are additional compelling grounds which require rejection of this tariff by the Commission:

- . The data filed by TRT to support the proposed tariff is patently inadequate to demonstrate that the change to a two-tier rate structure in the manner described is economically justified as required by Section 61.38 of the Commission's Rules. Indeed, such information as TRT has provided indicates that it will sustain a net revenue loss on this offering.* Failure to comply with Section 61.38 is grounds for rejection of a tariff schedule under Section 61.69 (c) of the Rules.**
- . The tariff contains discriminatory features which are prima facie unlawful under Section 202(a) of the Communications Act. The instant tariff clearly accords a preference to international

^{*}TRT document entitled "Reduced Experimental Rates for International Telex Service During Night and Weekend Periods To The United Kingdom and the Federal Republic of Germany" (hereinafter "TRT Exhibit"), p. 17. Under the circumstances, we submit it is disingenous of TRT to make this proposal in view of the fact it has represented to the Commission in other proceedings that it is losing money on its U.S. regulated activities, a point taken into account by the Commission in authorizing TRT to serve both the U.K. (46 FCC 2d at 1053) and Germany (FCC 74M-1588 at p. 12).

^{**}See Order released March 7, 1975 in the Matter of MCI Telecommunications Corporation, Revision of MCI Tariff F.C.C. No. 1, Transmittal Nos. 24 and 27, para. 4; Final Report and Order in Docket No. 18703, 25 FCC 2d 957, 973 (1970).

telex customers in the Pacific Time Zone, who would be able to send telex messages at the reduced "off-peak" charges during their regular business hours, and discriminates against users in other sections of the country who will not be given the same privilege. It also grants a preference to users who in their normal course of business would transmit traffic during "off-peak" hours and discriminates against those who do not. It further grants a preference to users who have requirements to send telex messages to the U.K. and Germany and discriminates against TRT customers who send such messages to other points on TRT's system.

. The tariff fails to comply with Sections 61.55(f) and (g) of the Commission's Rules which require that tariffs contain clear and explicit explanatory statements with regard to rates, rules, regulations, exceptions and conditions which appear in or govern the tariff. In particular, the instant tariff is unclear as to how the rates will be applied to telex calls which are placed by subscribers to TRT's STORTEX computer during peak hours and which are then forwarded to the overseas destination during off-peak hours or which are placed into the computer during off-peak hours and sent during peak hours. Noncompliance with Section 61.55 is also grounds for rejection of a tariff under the provisions of Section 61.69 of the Rules.*

^{*}MCI Telecommunications Corporation, supra, para. 5.

Point I

The Instant Tariff Has
Not Been Justified As Required
By Section 61.38 Of The Commission's Rules

U.S. customers to defer transmissions to "off-peak hours" when telex circuits, switches and exchanges are less congested, thereby making possible "more efficient and economical" utilization of existing international facilities and reducing the amount of non-revenue producing holding times.* It is claimed that the off-peak rate will "reduce costs of service...and stimulate demand for telex services."** However, the data provided by TRT is clearly inadequate to demonstrate that this tariff will accomplish its intended purpose.

The serious shortcomings of the TRT supporting material warrant rejection of this tariff for failure to comply with Section 61.38 of the Commission's Rules. Specifically, TRT has neither shown that its earnings from telex are excessive therefore justifying a rate reduction nor that sufficient new revenue would be generated by the tariff to compensate it for the revenue deficiency to result from the lower rate proposed. Rather, TRT concedes that it will sustain a net loss as a result of implementation of this tariff schedule.***

^{*}TRT Letter of March 24, 1975 to Chairman Wiley.

^{**}Ibid.

^{***}TRT Exhibit, p. 17.

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The data collected by CCITT Study Group III, upon which
TRT places considerable emphasis, also fails to justify the approach
contained in the subject tariff. While TRT is correct in stating
that the International Chamber of Commerce (ICC) has endorsed the
introduction of reduced off-peak telex rates as a means of relieving
congestion,* it was made clear at the CCITT meetings that the congestion problem affected Europe only and was not an intercontinental
problem. This was confirmed by the ICC representative during discussion of this question at the meeting of CCITT Study Group III
in January, 1974.

Although the Administrations present at that meeting were generally of the opinion that reduced off-peak telex rates would accomplish nothing except to afford certain large, 24-hour-a-day customers a reduced telex rate, nevertheless, Study Group III agreed to study the question further and sent out a questionaire to all Administrations. In response to this questionaire, the United States stated:

"[I]t is our understanding that the question deals with a continental problem and could more quickly be resolved if discussion were limited to the continental area for the immediate future. ***

"The United States believes that there is no apparent benefit at this time in considering Question 7/III in an intercontinental context and that resolution

^{*}Study Group III - Contribution No. 12, Cocember, 1973.

can be more quickly and easily reached if it is considered only as a continental problem. If this suggestion is adopted, Administrations will not have to ponder the problem of determining off-peak hours in the case of service between the United States and Europe, for example, where 5 hours minimum time differential exists."*

This letter expressed the unanimous position of all U.S. government, carrier (including TRT) and user representatives who attended the U.S. preparatory meeting.

TRT has further failed to establish that its off-peak hours rate proposal will result in any appreciable reduction in congestion in the U.S. domestic telex network. The fact that TRT's holding time during peak hours exceeds its off-peak holding time does not result from congestion on WU's facilities. If it did, the connection from the Western Union subscriber to TRT would not be accomplished. TRT does not show how reduced rates from 7 p.m. to 9 a.m. Eastern Time would reduce congestion on WU lines from the west coast--7 p.m. Eastern Time being 4 p.m. Pacific Time, a period of peak transmission. Similarly, TRT does not show how its proposal would reduce congestion on local telex networks because 9 a.m. Eastern Time is the equivalent of 2 or 3 p.m. European Time, again, a period when telex loads may be expected to be heavy in Europe. In any event, if TRT's calls to Germany and the U.K. are

^{*}Letter of R. T. Black, Chairman, U.S. CCITT National Committee, dated December 19, 1974. A copy of this letter is annexed hereto.

routed over direct intercontinental circuits, the problem of congestion within the European telex network becomes irrelevant.

Thus, the delays experienced by TRT would appear to be related to deficiencies within its own system. The introduction of an off-peak reduced telex rate will simply shift the congestion hour, since it must be assumed that any customers who do hold their transmissions during the day will immediately attempt to release them at 7 p.m. when the reduced rates begin to apply.

The marketing data furnished by TRT is clearly deficient to support the conclusion that there would be either a significant shift in existing traffic or significant new traffic resulting from the implementation of this tariff. In particular, TRT's "survey" included only 97 customers of the approximately forty thousand regular users of international telex in the U.S.

It also would appear that TRT has surveyed only large users. It is noted that the 23 customers who responded affirmatively to the survey generate an average of 90 minutes of telex to the U.K. and Germany each week. Furthermore, TRT does not explain the basis for its assertions that off-peak telex rates would result in a 10 percent shift in communications from other media when the off-peak telephone and mail rates will continue to be less than the proposed \$2.00 per minute telex rate.

It is also invalid to compare telex to telephone insofar as reduced night rates are concerned. In the case of telephone, lower night rates are justified primarily to shift social traffic, which is not time critical, to off-business hours. There is no such social traffic in the case of telex.

Based upon TRT's figures,* its present retained revenue from telex service is \$0.925 per minute (\$4781 ÷ 5166.1 mins.) while its projected retained revenue following the introduction of reduced night rates will be \$0.80 per minute (\$4162 ÷ 5215.4 mins.). Moreover, TRT's retention on off-peak calls will decrease from \$1.05 to \$0.50 per minute. Thus, as TRT increases its off-peak volume its average retained revenue will decrease below \$0.80 per minute. There is no data which would establish whether TRT's projected retained revenues represent a reasonable rate of return for the service being provided. In sum, it is readily apparent that TRT has not provided the data required to justify the proposed reduction required by Section 61.38 of the Commission's Rules.

^{*}TRT indicates that it credits both the U.K. and Germany approximately \$1.125 per minute on U.S. originated traffic destined to these countries (TRT Exhibit, p. 15). However, in the case of Germany, because of settlement factors, the actual payout is approximately \$1.26 which would reduce TRT's retained revenue to \$.32 during off-peak hours and \$.71 during peak hours.

The TRT tariff on its face clearly does not comply with the statutory mandate of Section 202(a) of the Communications Act, 47 U.S.C. §202(a), which prohibits any common carrier from making:

"any unjust or reasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, or locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."

This tariff fails to meet the statutory standard in at least three basic respects:

- . Because Eastern Time is made controlling in all cases irrespective of the actual location of the user, the tariff grants a preference to users on the West Coast of the United States who can transmit telex messages at the reduced "off-peak" rate during their normal business hours starting at 4 p.m. Pacific Time, and discriminates against users in other sections of the country.
- . The TRT tariff grants a preference to those users whose normal business practices involve the transmission of telex messages after 7 p.m. or before 9 a.m. Eastern Time and discriminates against those whose practices do not. The Commission may take notice that

it is highly improbable that a business will elect to remain open two additional hours or longer, with the resulting increase in operating expenses (overtime, utilities etc.), merely to save \$.55 a minute on telex calls to two points in Europe. The Commission may also take notice that there is no significant social use of telex.

. The tariff grants a preference to users who have requirements to send telex messages to the U.K. and Germany and discriminates against users who have similar requirements both on parallel routes (e.g., Italy) and to other points on the TRT system (e.g., Central and South America).

The foregoing patently discriminatory features are not cured because the tariff is labelled "experimental." Regardless of the nomenclature employed by TRT, if this tariff were to become effective, it would become applicable to TRT customers in the same way as any other TRT tariff. As pointed out by the U.S. Court of Appeals:

"The prohibition against different charges to different customers for like services under like circumstances is flat and unqualified.*** Moreover it is quite clear that this is not a matter of chance statutory semantics. It is a matter of public interest and policy. The money difference in price is the core of the proscription. Equal prices for like services is in itself a matter of public interest."*

^{*}American Trucking Associations, Inc. v. FCC, 377 F. 2d 121, 130 (D.C. Cir. 1966).

Furthermore, the proposed off-peak offering is not analogous to AT&T's reduced telephone rates. The time when reduced off-peak telephone rates go into effect is determined by the point of origin of the call. There is no reason why, at 4 p.m. Pacific time, a customer in Los Angeles should be entitled to "off-peak" telex rates. Certainly, the granting of reduced rates to West Coast customers during their normal business hours will not reduce any alleged congestion in the Western Union telex network, but rather, if anything, it will have the opposite effect.

Contrary to TRT's assertions, we submit there is no valid basis to assume that any appreciable amount of traffic generated by East Coast customers now handled during peak hours will be held until after 7 p.m. to take advantage of the lower rate because of the substantial costs involved in keeping businesses open beyond their regular hours. Thus, as a practical matter, the effect of the reduced rate will be to grant certain users, who normally transmit telex messages at night anyway because of the nature of their businesses, a preferential rate. As noted above, there is no non-business use of telex. Therefore, lower night rates will not serve to as yellop a new social market or encourage social users to defer calls after business hours as in the case of lower night and weekend telephone rates.

TRT also provides no legitimate justification for its electing to introduce the proposed service only on its U.S./U.K.

and U.S/Germany routes. Indeed, assuming only certain routes were to be selected, it would seem more logical for TRT to propose to "test" this new service approach on its well-established, heavily utilized U.S./Latin America routes where, in some instances, it controls both ends of the circuit and where the time differential is considerably less than to Europe.

We submit that there is no question that the TRT tariff will result in discriminations and preferences. We further submit that the Commission may take notice of the facts and circumstances enumerated above which are self-evident and which clearly support a finding that such discriminations and preferences are <u>prima facie</u> unlawful.

Point III

The Instant Tariff Is Not Clear And Precise As To Its Application

RCA Globcom submits that the TRT tariff is also subject to rejection for non-compliance with Sections 61.55(f) and (g) of the Commission Rules.* Section 61.55(f) requires a tariff to include:

"Such explanatory statements in clear and explicit terms regarding the rates and regulations contained in the tariff as may be necessary to remove all doubt as to their proper application."

Section 61.55(g) mandates

"A clear and definite statement of the general rules, regulations, exceptions, and conditions which govern the tariff...."

^{*}MCI Telecommunications Corporation, supra, paras. 5-7.

\$2.00 per minute applies to calls <u>connected</u> as <u>defined herein</u>..."*

While the term "connected" appears at several places in TRT's tariff, in no place is it clearly defined. A serious question is therefore presented as to the interaction between the new tariff material and existing provisions governing TRT's STORTEX store-and-forward service option.** It is not clear from this tariff, for example, what rate would apply to telex calls which are placed by subscribers to TRT's STORTEX computer during peak hours and forwarded to the overseas destination during off-peak hours. If the lower rate were to be charged in the preceding example, the rationale for the tariff revision would be defeated and the tariff filing would become a sham.***

We submit the vagueness on this key point requires rejection of the entire tariff.**** This is by no means a <u>de minimis</u> omission which may be disregarded by the Commission. Rather, it has a direct bearing on how the new charges will be applied and the effect of the rate change both on TRT's revenues and the utilization of its facilities.

^{*7}th revised page No. 10 (emphasis supplied).

^{**10}th revised page No. 7A.

^{***}The Commission has held that where there is ambiguity in tariff language, the tariff should be construed in favor of the customer. See Warrensburg Cable, Inc., 10 FCC 2d 601 (1967).

^{****}MCI Telecommunications Corporation, supra, para. 5.

Point IV

The Instant Tariff Is An
Inappropriate Vehicle For Implementing A
Fundamental Change In The Concept Of International Telex

It should be borne in mind, as noted herein, that the idea of "off-peak" telex rates has been the subject of discussion for several years in an international forum in which TRT itself participated. Heretofore, this approach has been rejected in the intercontinental context because, inter alia, of the problems involved in implementation on a global basis due to the substantial time differences which exist between the U.S. and major overseas commercial centers, e.g., the U.K. and Japan. Certainly, it is apparent that far more detailed study of the economic and operational factors involved in introducing "off-peak" international telex rates is required than has obviously been made by TRT before such a fundamental change can be approved by the Commission.

Despite the serious deficiencies in the TRT tariff pointed out herein, TRT would urge the Commission that the subject proposal supports the Commission's determination that additional competition from TRT on these routes will "serve the general purpose of maintaining good service and improving it."* However, assuming arguendo that TRT's tariff were deemed to constitute a public "benefit",

^{*}TRT Exhibit, p. 6.

TRT is not entitled to receive any favored consideration in the pending proceedings involving its Section 214 authorizations to serve the U.K. and Germany as a consequence of its filing this tariff. The law is clear that subsequent developments cannot justify a Commission decision not supported by substantial evidence of record at the time made.*

We further submit it would be highly unfair and prejudicial for the Commission to allow TRT to institute basic changes in the concept of international telex service at a time when the legal basis for its Section 214 authorizations to serve the U.K. and Germany are under challenge and long overdue for decision.** It is clear that if TRT's authority were terminated or suspended by the Commission, the instant tariff proposal would fall for lack of requisite authority.***

In essence, TRT is proposing this "experiment" in an area where it has the least experience, the least market penetration and would suffer the least adverse affects. Conversely, it is an area where the other international record carriers have very heavy traffic loads and could be seriously damaged were this obviously defective TRT proposal to become the new industry standard.

^{*}Burlington Truck Lines, Inc. v. U.S., 371 U.S. 156, 169 (1962).

^{**}Section 405 of the Communications Act, 47 U.S.C. §405; "Notice" of ITT World Communications Inc. in connection with File No. T-C-2335-3, dated January 7, 1975.

^{***}Press Wireless, Inc. v. FCC, 264 F. 2d 372 (D.C. Cir. 1959).

Under the circumstances, we submit it would be an abuse of discretion for the Commission to ignore the patent defects in this TRT tariff and allow it to go into effect merely because it proposes lower charges. As stated by the U.S. Court of Appeals:

"[A] n agency has the power and in some cases the duty to reject a tariff that is demonstrably unlawful on its face. Thus, an agency will reject a tariff that conflicts with a statute, agency regulation or order.... In such cases the refusal of an agency to reject a tariff may be reviewed by the courts."*

Certainly, provision for lower charges <u>per se</u> is clearly not enough to sustain a tariff if it is demonstrably unlawful or otherwise not in compliance with the Commission's Rules and policies.**

WHEREFORE, for the foregoing reasons, RCA Global Communications, Inc. respectfully submits that the Commission must reject the subject TRT tariff.

Respectfully submitted,
RCA GLOBAL COMMUNICATIONS, INC.

s/Francis J. DeRosa

s/Charles M. Lehrhaupt

Its Attorneys 60 Broad Street New York, New York 10004

April 18, 1975

^{*}Associated Press v. FCC, 448 F. 2d 1095, 1103 (D.C. Cir 1971) (footnotes omitted).

^{**}See, e.g., Leased Channel Rates for International Services, 45 FCC 2d 755, 756 (1974).

ATTACHMENT A

Mr. J. F. Pedersen General Direction of Posts and Telegraphs Favergade 17 DK-1007 Copenhagen K, Denmark

Dear Mr. Pedersen:

In response to CCITT Circular No. 75 of April 25, 1974, the United States wishes to express the following comments and observations.

Although Question No. 1 of the Circular expressly requests Administrations to state their attitude concerning the possible application of reduced rates during light traffic periods in intercontinental relations as well as in continental relations, it is our understanding that the question deals with a continental problem and could more quickly be resolved if discussion were limited to the continental area for the immediate future.

During the meetings of Study Group III in January 1974, representatives of user organizations explained that they frequently experience delays and other difficulties in obtaining telex connections within the European network during peak periods due to congestion. Consequently, they believe that a reduced off-peak rate will stimulate some users to delay attempting to transmit their non-urgent telex traffic until off-peak hours, thus relieving congestion during peak hours. It was also mentioned by the user representatives that this problem does not present itself in intercontinental relations.

The United States believes that there is no apparent benefit at this time in considering Question 7/III in an intercontinental context and that resolution can be more quickly and easily reached if it is considered only as a continental problem. If this suggestion is adopted, Administrations will not have to ponder the problem of determining off-peak hours in the case of service between the United States and Europe, for example, where 5 hours minimum time differential exists. Furthermore, regional groups, such as TEUREM, would be able to consider the question within a narrower context, as it relates to a particular geographical area if intercontinental considerations are set aside. For these reasons, the United States proposes that Question 7/III be considered and resolved on a regional basis by the individual regional tariff groups.

Sincerely yours,

Richard T. Black Chairman U.S. CCITT National Committee

cc: CCITT Secretariat

CERTIFICATE OF SERVICE

I, Audrey Gadson, hereby certify that on this 18th day of April, 1975, I mailed a copy of the foregoing "Petition to Reject" by United States mail, postage prepaid, to the following persons:

Mr. Walter R. Hinchman Ruth Reel, Esq. Common Carrier Bureau Federal Communications Commission Washington, D. C. 20554

Kenneth W. Gross, Esq. TRT Telecommunications Corporation 1747 Pennsylvania Avenue, N.W. Washington, D. C. 20006

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Mr. J. A. Berenger The French Telegraph Cable Company 25 Broad Street New York, New York 10004

Jack Werner, Esq.
The Western Union Telegraph Company
1828 L Street, N.W.
Washington, D. C. 20036

s/Audrey Gadson

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of

TRT TELECOMMUNICATIONS CORPORATION

Transmittal No. 684

Proposed Revisions to Tariff F.C.C. No. 64 for Telex Service Between the United States and the United Kingdom and the United States and the Federal Republic of Germany.

To: The Commission.

REPLY TO PETITIONS FOR SUSPENSION .

TRT Telecommunications Corporation (TRT) hereby submits its Reply to the petition filed by ITT World Communications Inc.

(ITT) on April 15, 1975 and by Western Union International, Inc.

(WUT) on April 17, 1975, requesting the Commission to suspend and investigate TRT's March 24, 1975 tariff filing to establish, effective May 1, 1975 experimental reduced off-peak telex rates for service from the Continental United States, on the one hand, to the United Kingdom (U.K.) and the Federal Republic of Germany (FRG) on the other hand. In support hereof, TRT respectfully states as follows:

TRT, by the instant tariff filing, would reduce its telex rates, for an experimental six-month period, from the United States to the United Kingdom and the Federal Republic of Germany on weekends and during the weekday off-peak hours of late evening and early morning. TRT proposes a reduction of the current rate of

Petitions requesting rejection of TRT's filing were also filed by WUI and RCA. TRT concurrently has filed an opposition to those pleadings in which it responds to the procedural arguments of its competitors which relate to their request for rejection. The argument of WUI and RCA relating to the merits of TRT's proposed revisions are responded to in this pleading.

\$2.55 per minute, which now applies seven days a week, twentyfour hours a day, to an off-peak rate of \$2.00, which will be
applicable between 7 p.m. and 9 a.m. weekdays and between 7 p.m.
Friday and 9 a.m. Monday on weekends.

As fully discussed in the document accompanying TRT's tariff filing, "Reduced Experimental Rates for International Telex Service During Night and Weekend Periods to the United Kingdom and the Federal Republic of Germany", the principal purpose of this filing is to test the responsiveness of transatlantic telex customers to an off-peak rate reduction as an incentive to defer the transmission of their traffic to off-peak periods when it may be handled at lower cost and when it will not contribute to network congestion. Because telex is a business-oriented service. the great preponderance of traffic from the U.S. to Europe is transmitted during the normal weekday business hours in the eastern portion of the United States where internationally-oriented businesses are concentrated. In this regard, 84% of TRT customeroriginated telex traffic from the U.S. to the U.K. is transmitted between 9:00 a.m. and 7:00 p.m., Eastern Time on weekdays and in excess of 90% of such traffic to the FRG is transmitted during the same period.

The responses of TRT's customers to a survey it conducted indicate that with a 22% off-peak reduction, as proposed, approximately 11% of the telex traffic now being transmitted via TRT in peak periods to the U.K. and the FRG would be diverted to off-peak periods. Accordingly, we believe that an actual market test would

be highly beneficial to confirm the effectiveness of off-peak telex pricing and to determine whether off-peak pricing should be permanently implemented as part of TRT's rate structure. We have, therefore, filed the instant rate reductions, which are limited in scope to an experimental six-month period and to service to two European countries. If this experiment proves successful, we will subsequently propose to expand the offer of off-peak rates to other points.

This tariff filing represents the first voluntary reduction by any U.S. international record carrier of telex rates in the transatlantic market in many years. Moreover, it clearly evidences a willingness by TRT to re-evaluate the status quo in an attempt to provide improved services at reduced rates and to afford users a broader range of options in determining how they might best meet their transatlantic communications needs.

The petitions filed by our competitors are broadside attacks on every aspect of TRT's filing. Therein, they stretch their imaginations to conjure up and magnify every possible evil which might result from TRT's filing. The frantic and impassioned nature of these pleadings, we submit, reveal the real concern of the other carriers. They perceive that TRT's tariff filing represents the first awakening of actual price competition, which has been dormant in the industry for many years outside of the leased channel market. They fear that there may be an impending break in the comfortable status quo from which they have benefited in recent years with astronomical returns, e.g., for ITT 29.3% pre-tax, 18.3% post-tax; RCA 20.1% pre-tax, 14.6% post-tax, as reported for 1973.

The principal argument of ITT and WUI, as well as RCA in its Petition for Rejection, appears to be that an international carrier is prohibited by some unwritten rules of international comity and Commission policy from reducing its rates without the prior agreement of the whole industry or at least its foreign correspondents. Thus, ITT at page 6 of its petition states:

"Not only has TRT unilaterally departed from the U.S. position by proposing intercontinental "off-peak" telex rates, but it is ITT Worldcom's understanding that it filed tariff revisions providing for such rates without prior consultation with the foreign administrations involved."

Similarly, WUI at page 1 of its petition states:

"TRT's proposal for a reduced rate to United Kingdom and Germany during alleged off-peak hours ignores the industry-wide efforts at international cooperation and consultation."

In like manner, RCA Globcom states:

"Under accepted principles of international communications practice applicable to both telex and telephone service, a new concept of service, which would have a far-reaching impact on the entire industry, should not be introduced without joint study and consultation between the U.S. carriers and their foreign correspondents."

There, of course, is no such unwritten but binding rule requiring TRT to secure the prior approval of its foreign correspondents and its competitors to its planned rate initiatives. The adoption of such a rule, as ITT, WUI and RCA are well aware, would just about eliminate any possibility for price competition in the international telex market. The adoption of such a rule, moreover, would be tantamount to an abdication by the Commission of its rate making jurisdiction in the international field.

and cooperation with its foreign correspondents and the international telecommunications community. It values its relationships with its foreign correspondents and would do nothing to jeopardize those relationships. In this regard, TRT's experimental rate reduction has been fully explained to the British Post Office and the German Administration and neither entity has objected to the reductions. Certainly, if contrary to all present indications and our expectations, the off-peak rate experiment should cause any operating difficulties for our correspondents, as our competitors speculate, we will take prompt steps to rectify the situation.

Each of our competitors contend that TRT's rate filing departs from the U.S. position before the CCITT, citing Mr. Richard T. Black's letter dated December 19, 1974 in response to CCITT Circular No. 75 on the question of reducedrates during off-peak periods. This letter, however, does not state any position on the advisability of intercontinental off-peak rates, but states only that the U.S. delegation believed the resolution of question could be achieved more quickly if it were considered as a continental problem. The letter, thus, does not reflect a consensus of the U.S. delegation against the initiation of off-peak rates in the intercontinental service (as our competitors contend) but only that there was no consensus within the delegation on the question.

WUI (pages 4-7' also argues that TRT's filing should not be allowed to become effective because it differs in some respects from the draft recommendations which were circulated to CCITT Study Group III members in connection with CCITT Circular. No. 75. In this regard we submit that TRT's experimental rates are in basic accord with those draft recommendations. Moreover, these draft recommendations represent only a very preliminary statement of a CCITT working party. Thus, the CCITT's letter, dated April 25, 1974 transmitting this draft states:

"For information, the text of a preliminary draft recommendation on the application of reduced tariffs in the international automatic telex service is attached as Annex C. Needless to say, the text, which may well be amended on the basis of the results of the study, will only be submitted for approval by the next Plenary Assembly of the CCITT after being given final approval by Study Group III. In particular, the text of this preliminary draft Recommendation prepared by Study Group II should not be communicated to the users of the telex service involved in the inquiry mentioned in 3 above for fear they may confuse provisions already adopted and drafts still under study."

As described subsequently, TRT will closely monitor the market reaction to the proposed experimental rate reductions and periodically report its findings to the Commission along with the underlying data collected. This information will also be made available to the CCITT for its consideration in connection with Question 7/III relating to reduced telex rates during light traffic periods. Accordingly, we submit, that TRT's experimental off-peak reductions will be of substantial assistance to the CCITT rather than conflict with any of its goals. Pertinent here is WUI's response in a recent pleading to an argument by ITT that

the initiation of WUI's proposed experimental IDDS offering should be postponed pending a Commission against into the type of digital data system that should be adopted for the industry. Therein WUI tated:

"The merits of IDDS can best be evaluated in the crucible of the marketplace, under controlled conditions to facilitate such evaluation. ... IDDS deserves to be tested on its own merits, without the inevitable long delay that ITT's proposed major policy inquiry would necessitate. In fact, WUI submits that evaluation of the IDDS experimental offering, after an appropriate test period, might provide an excellent factual and empirical basis for any future policy inquiry such as that proposed by ITT. (WUI's "Opposition to Petition to Deny", dated April 21, 1975, pages 12-13.)

In their petitions, TRT's competitors allege that TRT's proposed experimental reductions will be unlawful under Section 202(a) of the Communications Act, because some customers will be better situated to take advantage of off-peak service than others (WUI p. 11; RCA p. 10-11); because customers in the Pacific time zone will be favored (ITT p. 3; WUI p. 10-11; RCA pp. 10, 12); and because the reduced off-peak rates will only be available with respect to service to two countries (RCA p. 12). In making these arguments, we submit, our competitors have misinterpreted the Communications Act and the goals of TRT's rate filing.

Section 202(a), of course, does not require a slavish uniformity in rates for all services, as our competitors imply, in spite of any differences in the circumstances upon which the various services are provided. Reduced off-peak pricing has long been recognized in the utility and telephone industries as an effective method to stimulate the more efficient use of facilities to the benefit of all users. Indeed, the Commission, especially since the advent of direct distance dialing, has encouraged the Bell System to reduce the level of its charges for off-peak service.

TRT's off-peak service offering will be available to all of its subscribers and all of the Western Union Telegraph Company's (WUT's) Telex and TVX subscribers in the Continental United States. Of course, some users are better situated than others to tak advantage of this service. This is true of any off-peak offering. Indeed, this is true of any service offering. However, Section 202(a) of the Act does not require that every service offering must be equally as beneficial to all members of the public. It only requires that the offering be available to all under the same terms and conditions.

Our competitors, in a similar vein, argue that the proposed revisions would unreasonably favor some users over others because of the fact that, under TRT's tariff revisions, the applicability of reduced rates is based on Eastern time for all users rather than on the time zone in the location of the calling station. This argument, we submit, evidences a misunderstanding of the purpose of TRT's filing. By this filing, TRT proposes to accord reduced rates to customers which utilize its telex system during off-reak periods to encourage them to defer their transmissions until such periods and in recognition of the lower costs of handling such calls. As shown in Figures 1 and 2, pages 9-10 of TRT's support material, 9 a.m. to 7 p.m. Eastern time is the period in which TRT experiences peak load conditions. The benefits from lower costs and alleviation of congestion are the same with respect to a California user and a New York user who defers his call until after TRT's peak period. That it may be more convenient for a California user than for a New York user to defer the transmission of his traffic, we submit, is immaterial.

Moreover, an off-peak offering, giving recognition to the various time zones throughout the country, could not be implemented without a substantial additional investment. Thus, the applicable time zones associated with each of the many thousands of WUT Telex and TWX answerbacks would have to be determined and imputed into TRT's billing computer's memory and the computer would have to be reprogrammed to recognize this information in the computation of charges. Accordingly, we submit it would be imprudent to offer off-peak service during the experimental period on the basis which our competitors apparently prefer.

Our competitors preduct all manner of adverse consequences from the implementation of TRT's proposed reductions. They state:

- 1. That no customer will be induced by the proposed 55¢ per minute reduction to make his call in the off-peak period that would not do so anyhow. (RCA, p. 11-12)
- 2. That TRT will be flooded with calls in the early evening hours immediately after the off-peak period begins. (RCA, p. 8)
- 3. That TRT will be flooded with traffic in the early morning hours just before the end of the off-peak period causing congestion in the European network. (WUI, p. 5)
- 4. That substantial number of customers will transmit calls to the UK and the FRG for retransmission to other European countries. (WUI, p. 6)
- 5. That in revenge for the congestion caused to their systems by TRT's experimental reductions, the European administrations will establish off-peak reductions in the

Westbound direction to equally congest the United States communications system. (WUI, p. 8-9)

- 6. That customers by pre-arrangement will utilize offpeak rates at both sides of the Atlantic to send most of their traffic. (WUI, p. 9)
- 7. That the U.S. balance of payments will be adversely affected. (ITT, p. 6)

Prior to discussing these wild speculations, TRT will freely admit that its proposal may have some unforeseen defects which may have to be corrected before off-peak rates are adopted on a permanent basis. That is why TRT is only proposing a limited experimental offering at this time. The purpose of this experiment is to determine whether off-peak pricing can be effective in leveling out the load demand for telex service and, if so, what off-peak structure will be in the public interest. If any of the adverse consequences anticipated by our competitors or some that may have escaped even their fertile imaginations actually do occur, the situation will be corrected either by a modification in the off-peak rate structure or operating procedures or, if need be, by termination of the experiment.

lems and catastrophies imagined by our competitors will occur, it is at least certain that all of them cannot occur. If RCA is correct that the proposed 55¢ per minute reduction is not sufficient to induce customers to defer their transmission to the off-peak period, certainly TRT will not be flooded with additional traffic in the early morning hours or the early evening hours creating new peak load congestion worse than the existing peak load congestion.

Neither will the European Administrations seek to retaliate by encouraging their subscribers to send their traffic at a time that it will congest the U.S. internal telex network.

about the effects of off-peak pricing on the U.S. balance of payments. TRT's proposal, of course, would have no effect on the international balance of payments. TRT would not pay any more to its foreign correspondents for telex calls from the U.S. to Europe than it now pays. Nor would it collect any less from its foreign correspondents than it now collects for terminating telex calls originating in Europe. TRT will merely charge its United States customers 55¢ per minute less for off-peak telex calls to the U.K. and the FRG than it now charges. Thus, the only balance of payments possibly affected would be that between a carrier and its customers, all located in the United States—hardly a concern of the International Monetary Fund.

As described in the support package accompanying TRT's tariff filing, the results of the market survey of TRT's customers indicate that with the implementation of the proposed off-peak reduction, approximately 11% of traffic now handled in peak periods would be deferred until the non-peak periods, thus significantly reducing existing peak load congestion. However, there is no reason to anticipate, as WUI speculates, that so much traffic would be deferred because of the proposed 22% reduction that new peak congestion periods would be created in the early morning and early evening hours or that the majority of transatlantic telex traffic would be sent at the reduced off-peak rates. Moreover, there is no

reason to anticipate that all the deferred calls will be sent at once at 7:00 p.m. Also, we submit that it is quite far-fetched to assume, as WUI does, that customers in significant numbers will find it profitable during the experimental period to route their telex traffic to the U.K. and the FRG for retransmission to other European destinations.

As set forth above, one of the purposes of the test offering is to discover whether in fact unforeseen difficulties will arise from the implementation of off-peak rates, so that they can be identified and corrected. Even our competitors do not deny that, if reduced off-peak rates prove effective in deferring traffic now handled in peak periods to off-peak periods, significant benefits in lower costs and improved service will accrue to all users. We submit, that the Commission should not be deterred by our competitors' scare tactics from allowing TRT to initiate this test.

As indicated on Page 18 of TRT's support package accompanying its tariff filing, during the six-month period in which the reduced experimental rates will be in effect, TRT will closely monitor the effect of these night and weekend telex rates on users
through additional traffic distribution, revenue and market
studies.

In order to measure the effect of the reduced rates on the distribution of telex traffic during peak and off-peak periods, traffic distribution studies for one week during each of the months of May through October (i.e., during the experimental period in which the reduced rates will be in effect), will be compared with similar traffic distribution studies for one week during each of

the months of January through April (i.e., the period before the reduced rates become effective). The output of these computerized traffic studies show the minutes of non-revenue producing holding time and the minutes of revenue producing connect time by hour of the day. Thus, by comparing the study results for the period before the reduced rates become effective with the results during the experimental six-month reduced rate period will allow TRT to determine: (1) The overall effect of the reduced rates on the distribution of telex traffic throughout the day; (2) Trends in the usage of off-peak telex, and (3) Changes in hold time to connect time ratios.

In addition, once each month during the experimental sixmonth period, a market study of TRT's U.K. and FRG customers will
be conducted to determine: (1) The amount of telex traffic deferred
to off-peak periods as a result of the reduced rates, and (2) of
the total amount of telex traffic deferred to off-peak periods,
the proportion of this traffic that had previously been transmitted during peak periods and the amount of new telex traffic that
had previously been transmitted via other communications media.

The views and suggestions of users with respect to the need for this service which are communicated to us will also be forwarded to the Commission. In this regard, the numerous letters and telephone calls which TRT has received since announcing its intention to establish off-peak rates show overwhelming support of users and significant customer interest. The following is a sampling of comments received so far:

"Hopefully, the FCC will approve your six-month experimental reduced tariff plan and will see fit to extend it for a long time after the six months have expired.

Congratulations! Both TRT and National Airlines are pioneers and should be commended during this terrible period of inflation."

"We received your flier concerning the 55¢ savings per minute on telexes to West Germany, and since we are a German subsidiary we are very interested in this."

"We sincerely hope that the Experimental Tariff is passed and you have our support to continue with this plan."

"Congratulations for striking a blow for the competitive system!"

"We think it is a great idea and plan to take advantage of it."

"If you are successful in procuring FCC approval for this trial, we would be most interested in trying the service."

"We commend TRT for this action, which seems like good business for both carrier and customers ..."

Accordingly, we submit that the Commission should permit TRT to initiate this promising experimental offering on May 1, 1975 as scheduled.

WHEREFORE, the Commission is respectfully requested to deny the Petitions for Suspension of ITT and WUI.

Respectfully submitted,

TRT TELECOMMUNICATIONS CORPORATION

Noderick A. Mette

Its Attorney

CERTIFICATE OF SERVICE

I, Cynthia A. Martell, hereby certify that a copy of the foregoing "REPLY" has been sent this 25th day of April, 1975, to the following by United States first class mail, postage prepaid:

Joseph J. Jacobs, Esq.
ITT World Communications Inc.
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New York, N.Y. 10004

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Ruth Reel
Paul S. Darling
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Cynthia A. Martell

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D.C. 20554

In the Matter of

TRT TELECOMMUNICATIONS CORPORATION

Proposed Revisions to Tariff F.C.C. No. 64 for Telex Service Between the United States and the United Kingdom and the United States and The Federal Republic of Germany.

TO: CHIEF, COMMON CARRIER BUREAU

Wi -

Transmittal No. 684

OPPOSITION TO PETITIONS FOR REJECTION

mits its Opposition to the Petitions filed by Western Union
International, Inc. (WUI) on April 17, 1975 and by RCA Global
Communications, Inc. (RCA Globcom) on April 18, 1975 requesting
the Commission to reject TRT's March 24, 1975 tariff filing to
establish effective May 1, 1975, experimental reduced off-peak
teler rates for service from the Continental United States, on
the one hand, to the United Kingdom and the Federal Republic of
Germany, on the other hand. In support hereof, TRT respectfully
states as follows:

TRT, by the instant tariff filing, would reduce its telex rates, for an experimental six-month period, from the United States to the United Kingdom and the Federal Republic of Germany on weekends and during the weekday off-peak hours of late evening and early morning. TRT proposes a reduction of the current rate of \$2.55 per minute, which now applies seven days a week, twenty-four hours a day, to an off-peak rate of

\$2.00, which will be applicable between 7 p.m. and 9 a.m. week-days and between 7 p.m. Friday and 9 a.m. Monday on weekends.

This tariff filing represents the first voluntary reduction by any U.S. international record carrier of telex rates in the transatlantic market in many years. Moreover, it clearly evidences a willingness by TRT to re-evaluate the status quo in an attempt to provide improved services at reduced rates and to afford users a broader range of options in determining how they might best meet their transatlantic communications needs.

At the outset it should be noted that both RCA Globcom and WUI devote most of their petitions to a broadside attack on the wisdom and lawfulness of TRT's rate proposal rather than to a discussion of any alleged deficiencies which might be a basis for rejection. Indeed, WUI has submitted duplicate pleadings as its "Petition for Suspension and Investigation" and its "Petition for Rejection", only changing the title and the prayer for relief. In order rot to further burden the Commission with redundant pleadings, TRT will respond to the substantive arguments of its competitors in its concurrently filed "Reply to the Petitions to Suspend".*/ In this pleading we address only those contentions of WUI and RCA Globcom which might have some bearing on their requests for rejection.

In support of its rate filing, TRT has submitted a document entitled "Reduced Experimental Rates for International

Petitions to Suspend have been filed by WUI as indicated above, and by TRT's third major competitor ITT World Communications, Inc. (ITT Worldcom).

Telex Service During Night and Weekend Periods to the United Kingdom and the Federal Republic of Germany." Therein, TRT has shown, among other things, that:

- U.S. originated telex traffic to Europe, in general, and to the United Kingdom and Germany, in particular, has been growing at a rapid rate and is expected to continue to grow rapidly in the future.
- This rapid growth of U.S.-Europe telex traffic has caused a continuing decline in the quality of service due to network congestion.
- Network congestion and resulting deterioration in service is experienced during normal weekday office hours. In this regard, TRT has shown that more than 84% of its customer-originated telex traffic from the U.S. to the U.K. is transmitted between 9:00 a.m. and 7:00 p.m. on weekdays and that in excess of 90% of such traffic to the FRG is transmitted during the same period.
- The peak load characteristic of U.S.-Europe telex traffic and the resulting congestion in peak periods affects cost of service in two ways:

First, the telex circuits and switching systems of the carriers must be designed to have sufficient capacity to accommodate peak period load requirements. Indeed, in this age of fully automated telex services no additional facility costs need be incurred to handle additional traffic in off-peak periods.

Second, because of delays in completing calls during peak periods, the international record carriers (IRC's) incur longer non-revenue-producing holding times during which the IRC's must pay Western Union Telegraph Company (WUT) for domestic services without being able to charge the customer for international service. In this regard, TRT has described a study it has conducted of holding times for the U.K. and FRG telex traffic, which shows that on the average, TRT pays WUT \$.58 for each minute of billable time during the weekday period of 9 a.m. to 7 p.m., while it only pays WUT \$.42 for each billable minute for telex calls made during the weekday period of 7 p.m. and 9 a.m.

It is readily apparent from the above facts, none of which have been contested by TRT's competitors, that any significant shift in telex traffic loads from the peak period to the off-peak period would result in a major improvement in service quality as well as a substantial reduction in the long run cost of service, benefiting all users.

Further, as detailed on pages 15-16 of its support package, TRT surveyed 97 of its telex customers to test their responsiveness to reduced evening and early morning telex rates as an incentive to defer traffic to that time period. The responses to this survey indicate that, while a 10% rate reduction would have little effect, a 22% reduction, as proposed, would induce 23 of the 97 customers surveyed to defer some of their traffic to the off-peak periods. The results of this market survey further indicate that such an off-peak reduction would induce a shift of 11.3% of TRT's telex traffic to the UK and the FRG now transmitted during weekday periods of 9 a.m. and 7 p.m. to the off-peak period of 7 p.m. to 9 a.m. TRT has also shown, that at the reduced rate level it would realize a minimum of \$.45\(\frac{*}{2}\) per minute net revenue contribution to cover operating and overhead costs and that the maximum revenue reduc-

In RCA's Petition to Reject, a footnote at page 9 suggests that TRT erred in stating its payout of \$1.125 per minute to the FRG because of settlement factors and thus overstated TRT's retained revenue during off-peak periods. RCA's calculation, however, overlooks return traffic, which if proportionate, moots settlement considerations. In addition, RCA conveniently avoids mention that in the case of terminal traffic with the FRG, all IRCs settle on the basis of circuit usage (minutes and fractions) rather than rounded up full minutes. Accordingly, TRT estimates that its payout to the FRG per billable telex minute will actually be \$1.01 resulting in off-peak retained revenue of \$0.56 per minute.

tion that it could incur from the experiment is only \$770 per week or 4.7% reduction in the revenue TRT estimates that it would otherwise obtain from this service, absent the introduction of off-peak rates.

Accordingly, we submit, that TRT has amply demonstrated in the supporting material submitted with its rate filing, that the inaguration of these experimental rates is clearly in the public interest, especially in light of the very significant benefits to the public which could result from an off-peak rate structure and the minimal risks involved.

In this regard, we recognize that our competitors in their pleadings opposing this rate filing have conjured up from their very fertile imaginations all manner of problems which they allege might possibly arise from TRT's proposed rate reductions. These arguments are addressed in TRT's concurrently filed "Reply to Petitions For Suspension" wherein it is shown that there is no rational basis for these alleged fears.

Suffice it to say in this pleading, that TRT has only proposed a six-month experiment. If any of the problems allegedly envisioned by TRT's competitors should occur, the experimental rates may, of course, be modified or terminated.

Although RCA Globcom and WUI both claim that TRT has failed to supply all the data called for by Section 61.38 of the Commission's Rules and Regulations, they do not show why any of the allegedly omitted data is necessary to enable the Commission to make a determination as to whether TRT's proposed

experimental rates should be allowed to become effective. In this regard, WUI merely quotes the rule and states that TRT did not fully comply and that its tariff should therefore be rejected. The only specific ommission noted by RCA Globcom is that "TRT has neither shown that its earnings from telex are excessive therefore justifying a rate reduction nor that sufficient new revenue would be generated by the tariff to compensate it for the revenue deficiency that would result from the lower rate proposed." RCA Globcom, however, fails to recognize that TRT has shown that it will realize a significant revenue contribution to cover operating and overhead costs from off-peak telex service at the proposed \$2.00 per minute rate and that the maximum revenue loss to TRT will be minimal. (See Attachment A to TRT's supporting information).

Accordingly, to the extent that all of the requirements of Section 61.38 of the Commission's Rules may not have been met by TRT, we submit that these requirements should be waived in light of the ample showing which TRT has made and the experimental nature of the filing.

WUI and RCA Globcom contend that TRT's proposed tariff language violates Sections 61.55(f) and 61.55(g) of the Commission's Rules in that it does not specify whether the experimental off-peak reduction will be applicable to STORTEX messages. These carriers further argue that the Commission should reject TRT's filing because of this alleged defeat.

TRT submits that its proposed off-peak rates are clearly

not applicable to STORTEX messages. STORTEX is a store and forward service, which was inagurated by TRT in competition with the similar services of the other IRCs, and is provided pursuant to Paragraph D12(a) of TRT's Tariff F.C.C. No. 64, which states:

STORTEX - In the case of telex calls originated with TRT subscribers in the continental United States, telex calls originating with subscribers of the Western Union Telegraph Company telex and TWX systems and telex calls originating in Puerto Pico, the customer may transmit his call to the Company's telex computer switching system for immediate transmission to the called overseas party as soon as the facility situation permits. Chargeable time is computed on the same basis as if a direct connection had been made (emphasis added).

The applicability of the off-peak rate reductions, on the other hand, is specified in Paragraph E6 as follows:

Weekend and Night Telex Calls - In the case of telex calls to points where the published rate is followed by the symbol (+), a reduced charge of \$2.00 per minute applies to calls connected as defined herein, between the hours of 7 p.m. and 9 a.m. EST or EDT Monday through Thursday and from 7 p.m. EST or EDT Friday through 9 a.m. EST or EDT Monday (emphasis added).

As Paragragh D12(a) clearly indicates, STORTEX calls are not "connected" within the meaning of the tariff. This is further shown by language in Paragraphs D-1 and D-2, 4th Revised Page No. 4.

In any event, should the Commission consider that further clarification on this point is necessary or desirable, surely it has much less drastic remedies at its disposal than the rejection of TRT's entire tariff filing. TRT, of course, would be willing to file such additional clarifying language

as the Commission deems appropriate.

In their petitions RCA Globcom and WUI also contend that TRT's proposed experimental reductions are ill-conceived, and will not accomplish TRT objectives, that TRT should not be permitted to reduce its telex rates without prior agreement of its foreign correspondents and/or its competitors, that in light of TRT's current and small share of the European market, it should not be permitted to disturb the existing rate status quo, that TRT's proposal is contrary to the interest of international comity and that the proposed revisions are unlawful under Section 202(a) of the Communications Act. We have shown in our currently filed "Reply To Petitions for Suspension" that these contentions are meritless. In any event, however, these arguments are not germane to a request for rejection.

Paragraph 16 of its petition, that TRT may not reduce its rates in the instance without prior Commission approval under Section 214 of the Act. In view of WUI's past success in utlizing the requirements of Section 214 to forstall additional competition from TRT, we understand how it may have siezed upon that section as part of its arsenal here as a natural reflex action. However, in this case Section 214 quite clearly is inapplicable.

WHEREFORE, the Commission is respectfully requested to deny the petition for rejection of RCA Globcom and WUI and to permit TRT tariff revisions to become effective, as

scheduled on May 1, 1975.

Respectfully submitted,

TRT TELECOMMUNICATIONS CORPORATION

Roderick A. Mette Its Attorney

1747 Pennsylvania Avenue, NW Washington, DC 20006

CERTIFICATE OF SERVICE

I, Martha L. Powell, hereby certify that a copy of the foregoing "OPPOSITION" has been sent this 25th day of April, 1975, to the following by United States first class mail, postage prepaid:

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Walter R. Hinchman Chief, Common Carrier Bureau Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

Ruth Reel
Paul S. Darling
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Martha L. Powell

April 25, 1975

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554

49571

In the Matter of
TRT TELECOMMUNICATIONS CORPORATION

Revisions to Tariff F.C.C. No. 64 for establishing reduced experimental rate levels for international telex service from the continental United States to the United Kingdom and the Federal Republic of Germany

Transmittal No. 684

Adopted: April 28, 1975 $\stackrel{\underline{O}}{=}$ $\stackrel{\underline{E}}{=}$ $\stackrel{\underline{R}}{=}$ Released: May 2, 1975

By the Chief, Common Carrier Bureau

- I. Before us for consideration are proposed revisions filed on March 23, 1975, by TRT Telecommunications Corporation (TRT) under Transmittal No. 684 which are scheduled to become effective May I, 1975. The proposed revisions were filed for the purpose of establishing reduced experimental rate levels, for six months, for international telex service from the continental United States to the United Kingdom and the Federal Republic of Germany, during night, early morning and weekend time periods. Petitions for rejection of the tariff revisions and for suspension of the effective date have been filed by Western Union International, Inc. (WUI), RCA Global Communications, Inc. (RCA Globcom) and ITT World Communications, Inc. (ITT Worldcom).
- 2. TRT asserts that the experimental tariff will encourage off-peak use of international telex services which will result in significant costs savings. Petitioners contend that it is discriminatory in violation of Section 202(a) of the Communications Act; contrary to CCITT policy and to international comity; in violation of Sections 61.38 and 61.55 of the Commission's Rules; and, should more properly be brought before the Commission in the context of a Section 214 application rather than a Section 203 tariff filing.
- 3. We have insufficient time in which to review the matters at issue here prior to the proposed effective date of May I, 1975. Therefore, we will suspend the effective date of the revisions for 30 days to enable consideration of these matters by the staff and the Commission.

4. Accordingly, IT IS ORDERED, pursuant to the authority delegated in Section 0.291 of the Commission's Rules, That the effective date of the revisions to Tariff F.C.C. No. 64 filed under Transmittal No. 684 is hereby SUSPENDED until May 31, 1975, or as may be modified by further order of the Commission.

FFDERAL COMMUNICATIONS COMMISSION

Walter Hinchman

Chief, Common Carrier Bureau

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A GANCIE WN DE OBOYLE NY

150/1600G/LAC/BL PDF TO SECRETARYS OFFICE FCC ALONG WITH DLRS 15.00 TO COVER THE COST OF FILING AND HAND CARRY COPY TO BARNHART COMMON CARRIER BUREAU, ROOM 510 X

MAY 29, 1975

MR VINCENT J. MULLINS
SECRETARY
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

APPLICATION NO. 884 X APPLICATIONS IS HEREBY MADE FOR PERMISSION TO AMEND ITT WORLDOM'S JOINT TARIFF FCC NO 12

AS INDICATED BELOW TO BECOME EFFECTIVE 1 JUNE 1975 ON NOT LESS THAN ONE DAY'S NOTICE AFTER FILING HAS BEEN MADE 1 WITH THE COMMISSION X TO AMEND TARIFF BY ESTABLISHING RATES AND REGULATIONS OFFERING OFF-PEAK REDUCED TELEX RATES FROM CONTINENTAL UNITED STATES TO THE UNITED KINGDOM AND GERMANY (FEDERAL REPUBLIC) FOR AN EXPERIMENTAL PERIOD, SUCH PERIOD EXPIRING 31 OCTOBER 1975 UNLESS SOOMER CANCELLED CHANGED OR EXTENDED X THE PROPOSED REDUCED RATE IS DURS 2.00 PER MINUTE AND IS APPLICABLE BETWEEN 7PM AND 9AM EST OR EDT MONDAY THROUGH THURSDAY AND BETWEEN 7PM EST OR EDT FRIDAY THROUGH 9AM EST OR EDT MONDAY X THE PROPOSED RATES AND REGULATIONS WILL ENABLE ITT WORLDOOM TO MATCH A SIMILAR TARIFF FILING OF ANOTHER INTERNATIONAL RECORD CARRIER WHICH IS DATED TO BECOME EFFECTIVE 31 MAY 1975 X CONSEQUENTLY SPECIAL PERMISSIONS IS REQUESTED SO THAT ITT WORLDOOM MAY OFFER THESE REDUCED OFF-PEAK TELEX RATES TO ITS SUBSCRIBERS ON THE DATE INDICATED ABOVE THEREBY ENABLING IT TO BE COMPETITIVE WITH ZANOTHER INTERNATIONAL RECORD CARRIER? X

RESPECTFULLY SUBMITTED,

JOHN O'DOYLE, MANAGER, RATES AND TARIFFS ITT WORLD COMMUNICATIONS INC.

CF

PLS DEV DELIVER THIS FILING TO FCC AS SOON AS POSSIBLE PLS
RESESSIVILCO
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ADIOS

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Western Union International, Inc.

P. H. Sales And Mice Connect Lights

Tolephone 121. 2 . . 2

Application No. 556

May 30, 1975

Mr. Vincent J. Mullins, Secretary Federal Communications Commission Washington, D.C. 20554

Attn: Common Carrier Bureau

. Pear Mr. Mullins:

Application is hereby made for special permission to amend WUI Tariff F.C.C. No. 5 to become effective June 1, 1975 on not less than one day's notice, to establish reduced telex rates during certain hours to the Federal Republic of Germany and to the United Kingdom for an experimental period to expire October 31, 1975 unless sooner cancelled, changed or extended.

WUI's proposed amendments are intended to match the filing of another carrier which reduced the current rate of \$2.55 to \$2.00 per minute for telex calls to the Federal Republic of Germany and to the United Kingdom between the hours of 7 P.M. and 9 A.M., Eastern time, weekdays and between 7 P.M. Friday and 9 A.M. Monday, Eastern time.

The instant filing is being made for competitive necessity and without prejudice to the position stated in EUI's retition for suspension and investigation and petition for rejection dated April 17, 1975.

Due to competitive necessity and the experimental nature of the filing, waiver of Section 61.38 of the Commission's Rules is respectfully requested.

As a concomitant of its "Bellwether" carrier theory (25 F.C.d. 535; 580), the Commission has consistently permitted carriers to match a competitor's rate in a timely fashion. For example, the telex store and ferward attuation is similar to this one. In that case, RCA Global Communications, Inc. filed

the original tariff. Over vigorous protests by the competitor carriers, the Commission permitted the RCA tariff to become effective. Thereupon, the Common Carrier Pureau permitted RCA's competitors to file matching tariffs on short notice. RCA immediately filed a "Petition for Reconsideration and Request for Stay or Other Temporary Relief", arguing that it was entitled to "enjoy the fruits of its efforts" through an "opportunity to recoup our investment dollars".

In response, WUI argued:

"Clearly, the same public interest which -- as RCA argued so vigorously -- required the immediate implementation of RCA's service, also justified the staff's action in allowing RCA's competitors to bring their versions of this service to their own customers. Having argued that this service is needed by the public, it is unseemly for RCA to dispute the need for its competitors' customers to obtain similar benefits".

The Commission rejected RCA's claim of entitlement to competitive advantage by delaying the competitors' matching tariffs:

"In this case our interest was to reach a policy determination on the overall matters involved in deferred telex connections as soon as possible and to have the benefit of operational experience by all of the carriers for the hearing". (30 F.C.C. 2d 817, 819).

During this experimental period WUI will maintain appropriate records to determine the net effect on the Company's financial return and whether permanent adoption of off-peak telex service is warranted.

Attached is a check in the amount of \$15.00 to cover the application filing fee.

The filing fee herewith enclosed is paid involuntarily, and under protest, insofar as WII petitioned for reconsideration of the Commission's Order of January 20, 1979 establishing such tariff filing fee, and reserved its rights to take such further legal action as may be necessary to challenge the Order hereinbefore mentioned, and recoup such fees paid pursuant thereto.

Very truly yours,

(sgd.) P. II. Sach

Application No. 1330

May 30, 1975

Mr. Vincent J. Mullins, Secretary Federal Communications Commission Mashington, D.C. 20554

A E Schwarnberger Director Regulatory Allairs and Operating Arrangements Dear Mr. Mullins:

Application is hereby made for special permission to amend RCA Tariff F.C.C. No. 90, to become effective June 1, 1375 on not less than one day's notice, to establish reduced off-peak telex rates from the continental United States to the Federal Republic of Germany and to the United Kingdom for an experimental period of six months.

The proposed rates and conditions of service are the same as those filed by TRT Telecommunications Corp. pursuant to Transmittal No. 684 and which the Commission is allowing to go into effect. RCA Globcom's proposed matching tariff filing is being made for competitive purposes only so that it may retain its share of the existing telex market to the Federal Republic of Germany and the United Kingdom and is being made without prejudice to the opinions expressed in our Potitions to Suspend and Reject of April 18, 1975 concerning the lawfulness of the proposed offering.

In view of the experimental and competitive nature of our proposed tariff filing, we respectfully request that the Commission grant a temporary deferrment of those parts of Section 61.38 of the Commission's Rules which pertain to the submission of data which must accompany initial tariff filings. RCA Globcom will, however, maintain statistics for the duration of the experimental period by which it be able to analyze the financial and market effect of this offering to determine whether continuation of the offering would be to the benefit of the Company, the industry and the public.

Vincent J. Mullins, Secretary May 30, 1975

Page No. 2

Also enclosed is a check for \$15.00 to cover the filing fee for this application. The Commission will note that this fee is being paid under protest as RCA Globcom believes that the filing fees imposed by the present fee schedule (47 CFR Part #1, Subpart G) are not justifiable under the standard announced by the Supreme Court in National Cable Television Association, Inc. v. United

States, 415 U.S. 336, 94 S. Ct. 1146 (1974).

Notwithstanding the foregoing and without prejudice to RCA Globcom's position that such fees are unlawful, we tender the full fee required by the present rules since Section 1.1102(a) of the Rules states that applications unaccompanied by the required fee will be neither accepted for filing nor processed. Accordingly, we are left with no viable alternative to payment. RCA Globcom regards the enclosed payment as "involuntary" and reserves the right to institute proceedings seeking refund of all or part of the amount involved.

Very truly yours,

enc. AES/ab PR. VINCENT J. MULLING SECRETARY FEDUTAL COMMUNICATIONS COMMISSION WASHINGTON DC 20054

PLEASE AMEND ITT WORLD CON'S SPECIAL PERMISSION APPLICATION NO 885 DATES A JUNE 1975 RE ADVANCING EFFECTIVE DATE OF THE RATES AND REQULATIONS RELATING TO OFF-PEAK REDUCED TELEX RATES FROM CONTACTED WHITED STATES TO THE UNITED KINGDOM AND FEDERAL REPUBLIC OF GERNARY AS FOLLOWS:

- A TO INDICATE THAT THE PROPOSED OFF-PEAK REDUCED TELEX
 RATES AND REGULATIONS ALSO APPLY TO SUBSCRIBERS OF
 INTERNATIONAL TELEX SERVICE FURNISHED BY THE FRENCH
 TELEGRAPH CAPLE COMPANY X COST JUSTIFICATION IN COMPLIANCE
 WITH SECTION 61.38 OF THE COMMISSION'S RULES WILL BE
 SUBNITTED SHORTLY BY FRENCH X
- B TO INCLUDE THE FOLLOWING IN SUPPORT OF OUR PROPOSED OFF-PEAK TELEX OFFERING -

IN ITT WORLDCOM'S JUDGMENT THE SHIFT OF TELEX TRAFFIC TO THE UNITED KINGDOM AND TO THE FEDERAL RPUBLIC OF GERMANY, FROM BETWEEN 9AM AND 7FM MONDAY THROUGH FRIDAY TO THE OFF-PEAK HOURS DELINEATED IN ITT WORLDCOM'S TARIFF FCC NO. 12 (PAGE 20 - SECTION D. RATES) WOULD BE APPROXIMATELY 10 PERCENT. THIS SHIFT IN TELEX TRAFFIC WOULD HAVE AN ADVERSE REVENUE IMPACT OF APPROXIMATELY US DLRS 19,300 PER MONTH. WITH RESPECT TO TRAFFIC HORMALLY HANDLED IN THE PROPOSED OFF - PEAK HOURS, THE PROPOSED RATE WOULD REDUCE REVENUES APPROXIMATELY US DLRS 38,700 PER MONTH.

BASED ON THE ASSUMPTIONS, THERE WOULD BE A NET ADVERSE REVENUE IMPACT TO ITT WORLDCOM OF APPROXIMATELY US DENS 348,000 FOR A SIX-HONTH EXPERIMENTAL PERIOD. THIS ESTIMATE WAS BASED ON A SURVEY TAKER BY ITT WORLDCOM WHICH SHOWS THAT OUTPOUND TRAFFIC TO THE UNITED KINGDOM AND THE FEDERAL REPUBLIC OF GERMANY REPRESENTED 8.7 PERCENT OFF ITT WORLDCOM TOTAL TELEX REVENUES.

ITT VCHLEGON COULD REPROGRAM ITS BILLIES COMPUTERS TO OFFER OFF-FEAK TELEN RATES DASED ON LOCAL TIDE AT FOIRT OF ORIGIN. BUT EXTENSIVE COMPUTER REPROGRAMMING WOULD BE 10VGLVED. AT THIS TIME ITT WORLDOOM CANNOT MAKE AN ESTIMATE AS TO THE COST OF SUCH A REPROGRAMMING EFFORT.

ALTHOUGH IT IS TECHNICALLY POSSIBLE TO REPROGRAM OUR BILLING COMPUTER SO AS TO PROVIDE OFF-PEAK TELEX SERVICE BASED ON THE LOCAL TIME AT THE POINT OF ORIGIN, ITT WORLDCOM BELIEVES THAT IF THE COMBISSION WERE TO CONDITION ITS GRANT OF THE INSTANT APPLICATION SO AS TO REQUIRE ITT WORLDCOM TO PROVIDE OFF-FEAR TELEX SERVICE BETWEEN THE U.S. ON THE ONE HAPD AND THE FEDERAL REPUBLIC OF GERMANY AND THE UNITED KINSDOM ON THE OTHER HAND. IT WOULD TOTALLY DEFEAT THE PURPOSE OF THE EXPERIMENT WHICH THE COMMISSION ANTHORIZED THY TO UNDERTAKE. TRY WOULD BE CHARGING REDUCED RAYES FOR OFF-PEAR TELEX SERVICES BETWEEN THE UNITED STATES AND THE UNITED KINGDOM AND GERHADY ON AN EASTERN STADDARD TIME ZONE OR EASTERN DAYLIGHT SAVINGS TIME 70MG BASIS, AND SHOW MATES WOULD BE AVAILABLE TO CUSTOMERS IN TIME ZOWES OTHER THAN THE EASTERN STANDARD OR EASTERN DAYLIGHT SAVINGS TIME ZONE DURING MORE CONVIENCET HOURS OF THE BUSINESS DAY. FOR EXAMPLE, A TELEX CUSTOMER IN CALIFORNIA WOULD BE ABLE TO TAKE ADVANTAGE OF TRI'S REDUCED HATES AT APM FACIFIC STANDARD TIME OF FACIFIC DAYLIGHT SAVINGS TIME SINCE THAT WOULD BE THE EQUIVALENT OF 7PM EASTERN STANDARD OR EASTERN DAYLIGHT SAVINGS TIME.

ITT WORLDCOM DELIEVES THAT THIS DIFFERENCE IN OFFERINGS WOULD RESULT IN A MAJOR DIVERSION OF TELEX TRAFFIC FROM OTHER CARRIERS TO TRT. THERE WOULD BE NO WAY FOR THE COMMISSION TO DETERMINE WHAT PORTION OF THE ADDITIONAL TRAFFIC TRY RECEIVED SUSSEQUENT TO THE IMPLEMENTATION OF ITS OFF-PEAK TELEX RATES WAS OCCASIONED BY THE DESINE OF THI'S CUSTOWERS TO TAKE ADVANTAGE OF THE REDUCED RATES BEING OFFERED BY TRY DURING OFF-PEAK PERIODS, OR WHAT PORTION OF THE ADDITIONAL TRAFFIC WAS BEING DIVERTED FROM OTHER CARRIERS AS THE RESULT OF THESE CARRIERS BEING UNABLE TO FURNISH COMPETITIVE OFF-PEAK TELEX RATES IN TIME ZONES OTHER THAN THE EASTERN TIME ZONE. THE ONLY MANNER IN WHICH AN "EXPERIMENT" WITH RESPECT TO REDUCED OFF-PEAK TELEX RATES COULD PROVIDE MEANINGFUL STATISTICAL INFORMATION TO THE COMMISSION WOULD BE IF ALL CARRIERS CONDUCTED THIS EXPERIMENT ON PRECISELY THE SAME BASIS,, I.E., LOCAL TIME OF ORIGINATION OR EASTERN STANDARD TIME OR EASTERN DAYLIGHT SAVINGS TIME.

IN ADDITION, IF TRT WERE PERMITED TO CONDUCT ITS EXPERIMENTAL OFF-PEAK TELEX RATE PROGRAM ON AN EASTERN TIME BASIS AND THE OTHER INTERNATIONAL RECORD CARRIERS WERE REQUIRED TO CONDUCT SIMILAR EXPERIMENTS CONDUCTED BY THEM ON A LOCAL TIME BASIS TRT DERIVES A SIGNIFICANT COMPETITIVE ADVANTAGE PARTICULARLY IN THE PACIFIC AND MOUNTAIN TIME ZONESM ITT WORLDOOM WISHES IT CLEARLY UNDERSTOOD THAT IS IS REQUESTING AUTHORITY TO MATCH TRI'S EXPERIMENTAL OFF-PEAK TARIFF REVISIONS WHICH ARE CALCULATED ON AN EASTERN TIME ZONE BASIS SOLELY AS A MATTER OF COMPETITIVE NECESSITY, AND THIS FILING IS WITHOUT PREJUDICE TO THE OPPOSITION STATED IN ITT WORLDCON'S PETITION TO SUSPEND AND INVESTIGATE TRI'S SAID TARIFF REVISIONS. IN ITT WORLDCOM'S VIEW IT WILL ULTIMATELY BE FOUND THAT AN UNDUE DISCRIMINATION BETWEEN LOCALLITIES, IN VIOLATION OF SECTION 202(A) OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED, IS INVOLVED.

AS REQUELTED BY THE COMMISSION STAFF WE WILL REVISE OUR TARIFF TO INDICATE THAT OFF-PEAK TELEX RATES ARE NOT APPLICABLE TO ITT WORLD COM'S TIMETRAN OR MULTIPLE ADDRESS/COMMON TEXT TELEX OPTIONS.

TO THE EXTENT THAT INFORMATION SUBMITTED DOES NOT FULLY MEET THE REQUIREMENTS OF SECTION 61.50 OF THE COMMISSION'S RULES, WAIVER OF SUCH REQUIREMENTS IS REQUESTED PER DISCUSSION WITH THE COMMISSION'S STAFF.

WAIVER OF SECTION 61.59 OF THE COMMISSION'S RULES IS ALSO REQUESTED X

JOHN O'BOYLE MANAGER
RATES AND TARIFFS
ITT WORLD COMMUNICATIONS INC X

(21/27V

Western Union International, Inc.

P. H. SACH Asst. Vice Provident, Torins

Telephone (212) 383-8862

June 10, 1975 REV:T-1596-75

Mr. Vincent J. Milling Secretary Pederal Communications Commission Washington, D.C. 20354

Attn: Common Carrier Bureau

Dear Mr. Mullins:

This is with reference to Application No. 556 dated May 30, 1975, and Transmittal No. 987 also dated May 30, 1975, regarding reduced rates for Off-peak Teles Sarvice from the Continental United States to Germany and the United Kingdom.

The first Paragraph of Application No. 556 is hereby counded to read as follows:

Application is hereby made for special permission to advance the effective date of the amendments to WUI Tariff F.C.C. No. 5 filed with Transmittal No. 987 of May 30, 1975, to establish as soon as is practicable reduced telex rates during certain hours to Germany and the United Kingdom for an experimental period to expire October 31, 1975, unless sooner cancelled, changed or extended.

This action to being taken following discussions with the staff of the Common Carcian Eureau. Waiver of Section 61.59 of the Commission's Rules is requested.

In accordance with Section 61.38 of the Commission's Rules, included in Appendix A hereto are statistics choosing the offset upon MUL's revenue of the proposed changes. To the extent that the Corodesion may determine that these details do not meet fully the requirements of Section 61.33, waiver in hereby requested.

The proposed changes are identical with the amendments introduced by TRT effective May 31, 1975. An explained in Application No. 556 the filling is being made for reasons of competitive necessary. If WUL does not take this action, traffic presently received by NOE from subscribers of the Donestic Telescend 197% systems will be diverted to TRT. J WUL's failure to match the competitive offering will result in excelent of a segment of WUL's describer base and loss of day shadde goodwill. Partherways, the odd-peak experiment will be of value only if the status que to maintained between carefers with no new marketing factor introduced. Jacq diversions of traffic between carefers with no new marketing factor introduced. Jacq diversions of traffic between carefers will discort

compiled data and render impossible any chance to isolate and evaluate the tree effects of the experiable. The present relative small scale of Tir's traffic to the United Kingdon and Germany would tend to render wisleading and oberrational the statistical results of any study confined to such a minute dana base. The experimental goals of the off-peak offering will be frustrated if carelor-to-carrier traffic diversions (resulting from price differences) distort the hoped-for picture of tunffic shifts from peak to off-peak hours. common text calls covered by Rule 3.4.

The reduced rates will be applicable to direct calls established during the off-peak periods and will not apply to "Store & Forward" telex calls covered by Rule 3.10 of Tariff F.C.C. No. 5 nor to multiple address/

The Bureau Staff has requested comments on the feasibility of applying offpeak rates based on the local time at the point of origin rather then on Meatern Time. This would require revesping of the enswerback master file. This master file consists of the answerbacks of those customers who have utilized the NUI Telex System. Included in this file are NUI, NUD and TWX customers.

Each of the answerbacks in this master file would have to be identified as to the time cone the telex machine is located in. This would be done by applying the misverback to the customer name and address falls and assumating the machine was located at the billing address and applying a time zone code for rating. It would also require a manual review of the cutire file to determine the exceptions where the billing address is different from the machine location.

The method of applying off-peak rates by time some would be determined from a code placed in the answerback muster file and depending on the time of filling, weekend, etc., a rate would be applied.

The file would require additional continual naturemance for changes in addresses and answarbacks and deletions and additions of telem machines. In the case of TOX, where the answerback does not include a city code, it would be primarily a manual look-up for all new users.

The changes to the EDP program would require a one-time expense. maintenance of the master file would be continuous.

One pajor problem that would occur in applying rates based on local time would relate to calls which are initially unidentifiable as to the party making the call. These are primarily due to garbled answerbacks, belated information received via the WED and TOX directories, now installations and unmatched Will and TJR mawerbacks due to a variety of other reasons. These calls are presently obstracted and all accounting reports including revcause are prepared prior to determining the customer to be billed. Under a local time rate application, calls that were unidentified during the month could not be abstracted for revenue purposes until the origin of the machine or encloser could be determined.

In Wil's view it would not be practicable to adopt an experiment whereby one or note carefers applied a local thinking basis while others third according to Francia Tire. As noted above, this would merely result in a diversion of traffile to the cartier(a) with the core advantageous theing basks.

At recent discussions with Wif representatives, the Comion Carster Eureau staff indicated that they would defecte adjustions by Wil and the other international record carriers for possible experimental carvice offerings to complement the insumat off-peak tales emperiment. On February 27, 1975 Wil filed an application to provide its ismovative International Digital Data Service (IDDS) between the U.S. Mainland and four European countries. Wil has also filed applications with the Commission to provide its oversens electronic mail service (MANCYMOPOST) on an emperimental basis between the U.S. Mainland and Reverse the U.S. Mainland and serveral foreign countries?

Wil has also recently commend operation of its Hilo, Havali pateway on an experimental basis (File No. T-C-2236) to bring to the telecommutations public of the Big Island of Havali a volcase combination of improved international telegraph services and reduced transmission costs.

As the foregoing exceptes demonstrate, WUL is constantly evaluating the technical, operational and marketing possibilities of new experimental service offerings. As the carrier that introduced computarized telex switching, WUL pladges to continue its innovative efforts and will continue to cooperate with the staff in formulating new and meaningful improvements in its service offerings, consistent with sound business judgment and the keen competitive atmosphere of the international record industry.

Very truly yours,

P. H. Sacal

^{*} File No. T-C-2472, May 5, 1972.

^{**} File No. T-C-2531, Sept. 14, 1972.

DESCRIPTION OF PARTIEUR POTENTAL

REVENUE REDECTION ASSOCIATED WITH REDUCED EXPERIMENTAL UIGHT AND VETKERN TELEX SERVICE RATE LEVELS TO THE UK AND THE TROUBLE FOR AN EXPERIMENTAL SIX MONTH PERIOD

		•	
TIME	SCURCE	ITEM	AMOUNT
1	Note 1,384	Total billable minutes of traffic to the UK and the FRG for one week.	75,064.0
2 .	Notes 1 & 4	Billable minutes on Saturday and Sunday contained in amount on Line 1	1,105.0
3	L1-L2 .	Dillable whates during Monday through Friday contained in account of Line 1	74,759.0
. 4	. Note 4	Number of minutes on Line 3 transmitted between 7 p.m. and 9 c.m.	. 8,230.0
5	L3-1.4	Number of minutes on Line 3 transmitted between 9 a.m. and 7 p.m.	66,529.0
.6	1.5 Note 5	Number of minutes of Line 5 that will be deferred to night transmission as a	
7.	1.6	result of reduced rate	6,652.9
:	Rote 6	Hew nighttime telex business minutes as . a result of reduced rate	665.3
8.	. Note 7	Net retained revenue for one week period, at current rates	\$ 73,493
9	Note 8	Net retained revenue for one week paried, at current and reduced rates	\$ 65,903
10	1,8-1.9	Maximum possible revenue reduction . for one week period	\$ 7,590
11	Note 9	Maximum possible revenue reduction during six month experimental period	\$242,548

HOTES

- 1 UK and FRG traffic distribution study for May 24, 25, 28 and June 3, 1975
- 2 29,903.6 minutes (May 28 & June 3). .
- 1 29,903.6 minutes X 2.5 = 74,759.0 minutes (weekdays).
- 4 8,230.0 minutes (weekdays 7 p.m. 9 a.m). 1,105.0 minutes (Sat. Nay 26 Sun May 25).
- 5 Udl callactes that 10% of weekday daytime traffic will be deferred for night transmission. (.10 % 66,579.0)

KOTES (continued) .

6 MUL estimates that an additional 10% of new relex business, above the amount deferred for night transmission, will result from the reduced rate. (.10 % 6,652.11

9 on - 7 ma	7 pm - 9 am 8 Weekends
7 Dillable minutes LS; L2 & L4 . 66,529.0 Gross Revenue 62.55/min \$169,649 Foreign Payout 1.125/min (\$ 74,645) PUTCO Payout \$0.59 and \$0.43 respectively masuming 20% of traffic originates from UUT tinlines (31,402) WUI Net Retained Revenue 63,602	9,335.0 \$ 23,804 (\$ 10,502) (\$ 3,211) 10,091
\$73	,493
8 Billable minutes LS-L6; L2, 4, 6, 7 59,876.1 Gross Revenue \$2.55/min; \$2.00/min \$152,684 Foreign Payont 1.125/min (\$ 67,361) SUTCO Payont \$0.59 and \$0.43 respect	16,653.2 \$ 33,306 (\$ 18,735)
tively assuming 207 of traffic origi- nates from NUI ticline (\$ 20,262) FUI Net Recoined Revenue \$ 57,061	(\$ 5,729) \$ 8,842

\$65,903

	AMOUNT
9	KUI projected revenue during six month period at present
	rates (\$193,457 X 26 weeks X 1.25 (growth factor) \$6,287,223
	Mil projected revenue during six month period at proposed .
	rates (\$185,990 X 26 weeks X 1.25 (growth factor) \$6,044,675
. •	Maximum possible revenue reduction during six ponth period \$ 242,548
	Average maximum possible revenue reduction per week during
:	six month period \$ 9,330

Application No. 1382

June 10, 1975 T-168-Q-B

Mr. Vincent J. Mullins, Secretary Federal Communications Commission Mashington, D.C. 20554

A E Schwamberger Director Regulator; Alfairs and Operating Arrangements Dear Mr. Mullins:

On May 30, 1975 RCA Globcom filed its Application No. 1380 for special permission to amend RCA Tariff F.C.C. No. 90 to become effective on not less than one day's notice for the purpose of establishing reduced off-peak telex rates from the continental United States to the United Kingdom and to the Federal Republic of Germany for an experimental period of six months. Although the Commission permitted a similar tariff filing of TRT Telecommunications Corp. to become effective May 31, 1975, RCA Globcom's application for special permission to establish competitive rates was not granted. Under the circumstances, RCA Globcom had no alternative but to file the tariff amendments referred to in its Application No. 1380 on statutory notice. This action was accomplished pursuant to RCA Transmittal No. 4068 which was filed on June 4, 1975 with an effective date of July 4, 1975.

Since it is of the utmost importance, for all of the reasons set forth herein below, that the rates filed pursuant to Transmittal No. 4068 become effective without delay, RCA Globcom hereby requests special permission to file tariff amendments, to become effective on not less than one day's notice, to advance the effective date of the matter filed pursuant to that Transmittal letter. In support of this request the following information is respectfully submitted for the Commission's consideration.

On March 24, 1975 TRT Telecommunications Corp. filed tariff amendments which established a reduced rate of \$2.00 per minute on telex calls from the continental United States to U.K. and FRG which are connected during the "off-peak" hours of 7 p.m. to 9 a.m. weekdays and between 7 p.m. Friday and 9 a.m. Monday, EDT or EST as the case may be. In allowing TRT's temporary tariff

to go into effect, the Commission stated "....we are persuaded that the public interest would be best served by permitting the experiment to proceed".

One of the primary reasons for the Commission allowing the TRT temporary tariff to become effective was because it is felt that the experiment should yield valuable information that would assist the Commission, the international record carriers, overseas correspondents, the CCITT and the public in assessing the desirability of any permanent offering. The Commission also recognized, however, TRT's share of the telex market to the U.K. and FRG, under fully competitive circumstances, is small in comparison with the other U.S. international record carriers. Consequently, RCA Globcom believes that in order to provide the Commission with the meaningful data it seeks on the acceptability of this experimental service as well as the effect thereof, the Commission should seek the widest possible data base. Additionally, if carriers other than TRT were obliged to maintain non-competitive tariffs, the shift in traffic which would be bound to occur would completely distort and make meaningless the data obtained during the period of the experiment. Such distortion would be even greater if the off-peak hours of TRT were based on eastern time while those of other carriers were based on local times. For example, it is obvious that a customer, if given the choice of paying \$2.55 per minute for service between 4 p.m. and 7 p.m. from the Pacific coast or \$2.00 per minute for similar service, would normally elect to pay the latter rate.

Refusal of the Commission to grant other international record carriers special tariff permission to compete with TRT would be inconsistent with the Commission's often announced policy of full and fair competition. It is neither full nor fair to require one carrier to charge higher rates than another carrier for the same service, particularly during a temporary experimental period when the widest possible data base is required in order to compile meaningful data.

While RCA Globcom continues to believe that a discriminatory aspect of the experimental offering would be removed if local time, rather than eastern time, were used as the basis for charging, nonetheless it is

essential for the reasons given above that RCA Globcom be permitted to establish a competitive offering. However in order to respond to the specific inquiry made at the June 6th meeting, it appears that RCA Globcom will incur nominal costs of approximately \$2000 to effect the necessary operating changes required in order to properly identify and bill calls which are placed during offpeak hours, eastern time. While we have not been able to fix a specific dollar price, it is clear that the costs involved to reprogram our computer to recognize local times would be substantially greater. More important, however, is the fact that while the changes required in order to compete with TRT can be accomplished in a short time, a major programming change would take over a month thereby making it impossible for RCA Globcom to introduce off-peak rates in a timely manner and to supply meaningful data for the entire experimental period without the distortion caused by different rates for similar services. The Commission appeared to recognize this fact in its Memorandum Opinion and Order which allowed TRT's experimental tariff to go into effect.

In respect to Section 61.38 of the Commission's Rules we are submitting the following additional information.

While RCA Globcom continues to be of the opinion that a reduced off-peak telex rate will not divert mail or telephone calls to the telex system, our inability to match the TRT offering would result in a serious diversion of telex traffic from RCA Globcom to TRT. RCA Globcom has already been advised by several large telex users that if we did not meet TRT's off-peak telex rates almost immediately, they would turn their United Kingdom and Germany files over to that carrier. Some customers have also indicated that since they prefer to deal with a single carrier they might transfer their entire telex file to TRT. Consequently, in order to protect against a serious diversion of traffic we propose to match the TRT offering on the earliest possible date. In this connection it should be noted that approximately 13.8% of the total volume of telex calls originated by Western Union telex and TWX subscribers in the hinterland which were transmitted to U.K. and FRG via RCA were connected during off-peak hours. In addition, RCA tieline customers in the gateway cities who also have Western Union teleprinters generate 11.7% of their telex calls to U.K. and FRG during off-peak hours. Thus, unless RCA Globcom is permitted to

institute the same reduced telex rate as TRT, the potential loss to RCA Globcom on calls to U.K. and FRG alone would be \$33,700 per month. This figure, which represents a loss in retained revenue to RCA Globcom, would of course be increased in the event that some major users might transfer their entire telex file to TRT.

On calls to U.K. and FRG which are connected during off-peak hours, RCA Globcom's retained revenue willbbe reduced by \$0.55 per minute. This reduction may be partially off-set of the holding time on Western Union originated calls is so than during peak hours. Particular attention will be devoted to this subject in our analysis of data which will be developed during the experimental period.

While it is reasonable to assume that users will affirmatively respond to reduced telex rates it cannot be estimated to what extent they may change their business patterns particularly in the eastern time zone in order to take advantage of such reduced rates. RCA Globcom intends to closely monitor the traffic patterns of users who are located in different time zones in order to determine customer reaction to this offering.

As a point of clarity RCA Globcom wishes to make known that in the case of telex calls which are stored and forwarded via the Company's TELEXTRA computer, connection will be considered to be effected at the time the customer originates the call rather than the time when the TELEXTRA computer retransmits the call to the overseas destination. In the event that the Commission believes that an editorial change to the existing tariff language is required in order to clearly express this intent, RCA Globcom agrees to file such change as may be required.

It is our belief that the above information is sifficient to satisfy the requirements of Section 61.38 of the Commission's Rules in view of the experimental and competitive nature of our proposed tariff filing. It is our intent, of course, to compile meaningful data during the experimental period in order to make a determination whether to continue, expand, revise or discontinue this offering when the experimental period expires.

All of the foregoing is without prejudice to our pleading herein with respect to the lawfulness of the proposed tariff, and its discriminatory features particularly insofar as the eastern time in leiu of local time.

Vincent J. Mullins, Secretary Page No. 5

June 10, 1975 T-168-Q-B

Also enclosed is a check for \$15.00 to cover the filing fee for this application. The Commission will note that this fee is being paid under protest as RCA Globcom believes that the filing fees imposed by the present fee schedule (47 CFR Part #1, Subpart G) are not justifiable under the standard announced by the Supreme Court in National Cable Television Association, Inc. v. United States, 415 U.S. 336, 94 S. Ct. 1140 (1974).

Notwithstanding the foregoing and without prejudice to RCA Globcom's position that such fees are unlawful, we tender the full fee required by the present rules since Section 1.1102(a) of the Rules states that applications unaccompanied by the required fee will be neither accepted for filing nor processed. Accordingly, we are left with no viable alternative to payment. RCA GLobcom regards the enclosed payment as "involuntary" and reserves the right to institute proceedings seeking refund of all or part of the amount involved.

Sincerely,

11 E Schwambiger

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, D. C. 20554

FCC 75-750 35880

In the Matter of

TIT WORLD COMMUNICATIONS INC.
RCA GLOBAL COMMUNICATIONS, INC.
WESTERN UNION INTERNATIONAL, INC.

Tariff Revisions Matching TRT Telecommunications Corporation's Experimental Off-Peak Telex Rates to the United Kingdom and the Federal Republic of Germany Transmittal No. 1888 Transmittal No. 4068 Transmittal No. 987

MEMORANDUM OPINION AND ORDER

Adopted: June 24, 1975 ; Released: June 30, 1975

By the Commission: Commissioners Hooks and Quello absent.

- l. The Commission has before it the above-captioned tariff filings of ITT World Communications Inc. (ITT), RCA Global Communications, Inc. (RCA), and Western Union International, Inc. (WUI); a Petition for Suspension and Investigation of such tariffs, filed by TRT Telecommunications Corporation (TRT); and various responsive pleadings to TRT's petition.
- (FCC 75-655), we denied petitions of ITT, RCA, and WUI for suspension and/or rejection of a TRT tariff that reduced telex rates from the United States to the United Kingdom (UK) and the Federal Republic of Germany (FRG) during off-peak hours U.S. Eastern Time for an experimental six month period. ITT, RCA and WUI have filed tariff revisions to match TRT's telex rates to these points during the period of the experiment. ITT and RCA have also sought judicial review of our TRT decision in the United States Court of Appeals for the Second Circuit. The Chief of the Common Carrier Bureau denied requests for waiver of Section 61.58 of the Commission's Rules to permit the instant filings to become effective on less than 30 day's notice. ITT's and WUI's tariff revisions are scheduled to become effective on July 1, 1975 and RCA's on July 4,

- 3. TRT claims that none of the other record carriers has submitted any information or supporting data with their instant tariff filings, as required by Section 61.38 of the Commission's Rules and Regulations. It asserts that an allegation of "competitive necessity" does not obviate the necessity for compliance with that section of the Rules (citing, In re Amendment of Part 61 etc., 25 FCC 2d 957, 966 (1970)). TRT further urges that compliance with the Rules and an adequate public interest showing are particularly essential here, since our TRT decision was based largely on circumstances peculiar to TRT and the much larger traffic volume of the other carriers could have a much more substantial impact.
- 4. In processing the instant tariffs of ITT, RCA and WUI we have been cognizant of the much larger traffic volumes involved. We have coordinated their proposals with their UK and FRG correspondents, who expressed no objection provided that the reduced rates do not apply to store and forward and multiple address communications. We have also requested the record carriers to submit, pursuant to Section 61.38 of the Rules, information as to their estimated revenue losses due to the reduced rates. They submitted such information, estimating revenues losses of \$348,000 for ITT, \$325,000 for RCA, and \$242,548 for WUI. Based on their regular financial reports to us, we see no reason for concern that such losses during the proposed experiment would impact adversely on the public. However, we agree with TRT's assertion that the carriers' claim of competitive necessity has not been supported here. Rather, it appears that the estimated revenue losses from the reduced rates may exceed the potential diversion of traffic to TRT. We granted a partial waiver of Section 61.38 to TRT and will do the same here in view of the experimental nature of the tariff.
- 5. Finally, on the proposed use of the Eastern Time zone as the standard for off-peak hours, we have explored with the record carriers the possibility of basing their experiment on local transmission times. As in the case of TRT, this would entail reprogramming the billing computers. While it appears feasible to use local times, the test results might be distorted if the experimenting carriers used different time zone standards. For, in addition to traffic shifts from peak to non-peak hours, there could be diversion of traffic from one carrier to another. Of course, the same distortion could occur if one or more record carriers experimented with off-peak telex rates and others did not. While we did not regard that drawback as fatal to TRT's experiment, particularly

in the then absence of similar proposals by the other record carriers, we believe that the alue of the experiment would be enhanced if all four record carriers participated in the identical experiment on the same terms.

- 6. Accordingly, having found no reason to anticipate any substantial adverse effect upon the public and in view of the enhanced value of the experiment through the participation of ITT, RCA, and WUI, we conclude that the public interest will be served by denying the petition for suspension and investigation. As in the case of TRT, we will require ITT, RCA, and WUI to submit the following to maximize the value of the experiment:
 - (a) traffic studies similar to those described in the TRT filings (paragraph 10 of the TRT decision, FCC 75-655), which shall also be broken down to reflect telex traffic originating in the Pacific Time Zone in comparison with traffic originating in the Eastern Time Zone; 1/
 - (b) any comments received from their UK and FRG correspondents concerning the effect of the experimental offering on their operations; and
 - (c) full information as to the revenues actually received from all their telex operations to the UK and FRG during the experimental period, broken down to reflect the portions received from off-peak and peak hours operations, as compared to the revenues received from telex service to those two points during the period immediately preceding the effectiveness of the experimental tariff.

Such information shall be provided for telex originated traffic and TWX originated traffic, if practicable.

We will not now require TTT, RCA and WUI to conduct the further experiment with off-peak hours European time that is required of TRT. TRT has not yet worked out the details of that experiment, and there is no request before us by the other record carriers to be allowed to participate. The record carriers may seek to join in that experiment upon conclusion of the instant experiment, if they so desire.

- 7. In light of the foregoing, IT IS ORDERED, That:
- (a) The Petition for suspension and investigation of the instant tariffs of ITT, RCA and WUI IS DENIED;
- (b) ITT, RCA and WUI shall file the information set forth in paragraph 6 herein periodically during the experimental period and promptly upon the conclusion thereof; and
- (c) ITT, RCA and WUI ARE GRANTED partial waivers of Section 61.38 of the Rules, and the provisions of Sections 61.58 and 61.59 ARE WAIVED to permit the filing of a tariff revision specifying a November 30, 1975 termination date for the instant experimental reduced rates, and making clear that such rates do not apply to store and forward and multiple address traffic.

FEDERAL COMMUNICATIONS COMMISSION

Vincent J. Mullins Secretary

